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### GENERAL PROVISIONS

#### § 1451. Congressional declaration of policy

It is hereby declared to be the policy of Congress to provide capital on a reimbursable basis to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources and where they will enjoy a standard of living from their own productive efforts comparable to that enjoyed by non-Indians in neighboring communities.

(Pub. L. 93-262, § 2, Apr. 12, 1974, 88 Stat. 77.)

#### SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-449, § 1, Oct. 4, 1984, 98 Stat. 1725, provided: "That this Act [enacting section 47a of this title and amending sections 1461, 1465, 1481, 1484, 1491, 1497, 1512, 1522, 1523, 1541, and 1543 of this title] may be cited as the 'Indian Financing Act Amendments of 1984'."

#### SHORT TITLE

Section 1 of Pub. L. 93-262 provided: "That this Act [enacting this chapter] may be cited as the 'Indian Financing Act of 1974'."

#### § 1452. Definitions

For the purpose of this chapter, the term—

- (a) "Secretary" means the Secretary of the Interior.

(b) “Indian” means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any “Native” as defined in the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

(c) “Tribe” means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) “Reservation” includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

(e) “Economic enterprise” means any Indian-owned (as defined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit: *Provided*, That such Indian ownership shall constitute not less than 51 per centum of the enterprise.

(f) “Organization”, unless otherwise specified, shall be the governing body of any Indian tribe, as defined in subsection (c) of this section, or entity established or recognized by such governing body for the purpose of this chapter.

(g) “Other organizations” means any non-Indian individual, firm, corporation, partnership, or association.

(h) “Surety” has the same meaning as in section 694a of title 15.

(i) “Surety Bond” means a bid bond, payment bond, or performance bond as those terms are defined in section 694a of title 15.

(Pub. L. 93-262, § 3, Apr. 12, 1974, 88 Stat. 77; Pub. L. 100-442, § 5(b), Sept. 22, 1988, 102 Stat. 1764.)

#### REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in pars. (b) to (d), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

#### AMENDMENTS

1988—Pars. (h), (i). Pub. L. 100-442 added pars. (h) and (i).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450e, 450f, 1484, 2902 of this title; title 7 section 1471; title 10 section 2411; title 12 sections 1787, 1821; title 22 section 2124c; title 26 section 168; title 31 section 7102; title 40 section 483; title 42 section 11332.

### § 1453. Assistance or activities of other Federal agencies unaffected

No provision of this chapter or any other Act shall be construed to terminate or otherwise curtail the assistance or activities of the Small Business Administration or any other Federal

agency with respect to any Indian tribe, organization, or individual because of their eligibility for assistance under this chapter.

(Pub. L. 93-262, § 4, Apr. 12, 1974, 88 Stat. 77.)

## SUBCHAPTER I—INDIAN REVOLVING LOAN FUND

### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1541 of this title.

### § 1461. Administration as single Indian Revolving Loan Fund sums from diverse sources; availability of fund for loans to Indians and for administrative expenses

In order to provide credit that is not available from private money markets, or to supplement funds from private lenders, including loans guaranteed by the Secretary pursuant to section 1481 of this title, all funds that are now or hereafter a part of the revolving fund authorized by the Act of June 18, 1934 (48 Stat. 986) [25 U.S.C. 461 et seq.], the Act of June 26, 1936 (49 Stat. 1967) [25 U.S.C. 501 et seq.], and the Act of April 19, 1950 (64 Stat. 44) [25 U.S.C. 631 et seq.], as amended and supplemented, including sums received in settlement of debts of livestock pursuant to sections 442 and 443 of this title, and sums collected in repayment of loans heretofore or hereafter made, and as interest or other charges on loans, shall hereafter be administered as a single Indian Revolving Loan Fund. The fund shall be available for loans to Indians having a form of organization that is satisfactory to the Secretary and for loans to individual Indians: *Provided*, That, where the Secretary determines a rejection of a loan application from a member of an organization making loans to its membership from moneys borrowed from the fund is unwarranted, he may, in his discretion, make a direct loan to such individual from the fund. The fund shall also be available for administrative expenses incurred in connection therewith, or, in the discretion of the Secretary of the Interior, as a contribution to the Indian Loan Guaranty and Insurance Fund authorized by section 1497 of this title, or for the payment of interest subsidies authorized by section 1511 of this title.

(Pub. L. 93-262, title I, §101, Apr. 12, 1974, 88 Stat. 78; Pub. L. 98-449, § 2, Oct. 4, 1984, 98 Stat. 1725; Pub. L. 101-644, title III, §303(a), Nov. 29, 1990, 104 Stat. 4667.)

#### REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§461 et seq.) of chapter 14 of this title. Provisions of the act establishing the revolving fund are set out in section 470 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 461 of this title and Tables.

Act of June 26, 1936, referred to in text, popularly known as the Oklahoma Welfare Act, is classified generally to subchapter VIII (§501 et seq.) of chapter 14 of this title. Provisions of the act relating to the revolving fund appear in section 506 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 501 of this title and Tables.

Act of April 19, 1950, referred to in text, is classified generally to subchapter XXI (§631 et seq.) of chapter 14

of this title. Provisions of the act relating to the revolving fund appear in section 634 of this title. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1990—Pub. L. 101-644 substituted “money markets, or to supplement funds from private lenders, including loans guaranteed by the Secretary pursuant to section 1481 of this title,” for “money markets,” in first sentence and inserted before period at end of third sentence “, or, in the discretion of the Secretary of the Interior, as a contribution to the Indian Loan Guaranty and Insurance Fund authorized by section 1497 of this title, or for the payment of interest subsidies authorized by section 1511 of this title”.

1984—Pub. L. 98-449 which directed that “which are not members of or eligible for membership in an organization which is making loans to its members” be struck out was executed by striking out “who are not members of or eligible for membership in an organization which is making loans to its members” before proviso.

#### **§ 1462. Economic development; educational loans; limitation of loans to or investments in non-Indian organizations**

Loans may be made for any purpose which will promote the economic development of (a) the individual Indian borrower, including loans for educational purposes, and (b) the Indian organization and its members including loans by such organizations to other organizations and investments in other organizations regardless of whether they are organizations of Indians: *Provided*, That not more than 50 per centum of loan made to an organization shall be used by such organization for the purpose of making loans to or investments in non-Indian organizations.

(Pub. L. 93-262, title I, § 102, Apr. 12, 1974, 88 Stat. 78.)

#### **§ 1463. Repayment of loan; financing from other sources**

Loans may be made only when, in the judgment of the Secretary, there is a reasonable prospect of repayment, and only to applicants who in the opinion of the Secretary are unable to obtain financing from other sources on reasonable terms and conditions.

(Pub. L. 93-262, title I, § 103, Apr. 12, 1974, 88 Stat. 78.)

#### **§ 1464. Maturity of loans; interest rate; interest deferral on educational loans**

Loans shall be for terms that do not exceed thirty years and shall bear interest at (a) a rate determined by the Secretary of the Treasury taking into consideration the market yield on municipal bonds: *Provided*, That in no event shall the rate be greater than the rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose: *Provided*, That educational loans may provide for interest to be deferred while the borrower is in school or in the military service.

(Pub. L. 93-262, title I, § 104, Apr. 12, 1974, 88 Stat. 78.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1511 of this title.

#### **§ 1465. Modification of amount of loan and document securing loan in collection of loan or in best interests of the United States**

The Secretary may cancel, adjust, compromise, or reduce the amount of any loan or any portion thereof heretofore or hereafter made from the revolving loan fund established by this subchapter and its predecessor constituent funds which he determines to be uncollectable in whole or in part, or which is collectable only at an unreasonable cost, or when such action would, in his judgment, be in the best interests of the United States. He may also adjust, compromise, subordinate, or modify the terms of any mortgage, lease, assignment, contract, agreement, or other document taken to secure such loans.

(Pub. L. 93-262, title I, § 105, Apr. 12, 1974, 88 Stat. 78; Pub. L. 98-449, § 3, Oct. 4, 1984, 98 Stat. 1725.)

#### AMENDMENTS

1984—Pub. L. 98-449 struck out proviso at end of first sentence which provided that proceedings pursuant to this section would be effective only after following the procedure set out in section 386a of this title.

#### **§ 1466. Land and personal property title**

Title to any land purchased by a tribe or by an individual Indian with loans made from the revolving loan fund may be taken in trust unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchasers without any restriction on alienation, control, or use. Title to any personal property purchased with a loan from the revolving loan fund shall be taken in the name of the purchaser.

(Pub. L. 93-262, title I, § 106, Apr. 12, 1974, 88 Stat. 78.)

#### **§ 1467. Security for loan; assignment of securities; reasonable assurance of repayment**

Any organization receiving a loan from the revolving loan fund shall be required to assign to the United States as security for the loan all securities acquired in connection with the loans made to its members from such funds unless the Secretary determines that the repayment of the loan to the United States is otherwise reasonably assured.

(Pub. L. 93-262, title I, § 107, Apr. 12, 1974, 88 Stat. 79.)

#### **§ 1468. Authorization of appropriations**

There is authorized to be appropriated, to provide capital and to restore any impairment of

capital for the revolving loan fund \$50,000,000 exclusive of prior authorizations and appropriations.

(Pub. L. 93-262, title I, § 108, Apr. 12, 1974, 88 Stat. 79.)

#### § 1469. Rules and regulations

The Secretary shall promulgate rules and regulations to carry out the provisions of this subchapter.

(Pub. L. 93-262, title I, § 109, Apr. 12, 1974, 88 Stat. 79.)

### SUBCHAPTER II—LOAN GUARANTY AND INSURANCE

#### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1511, 1541 of this title.

#### § 1481. Statement of purpose

In order to provide access to private money sources which otherwise would not be available, the Secretary is authorized (a) to guarantee not to exceed 90 per centum of the unpaid principal and interest due on any loan made to any organization of Indians having a form or organization satisfactory to the Secretary, and to individual Indians; and (b) in lieu of such guaranty, to insure loans under an agreement approved by the Secretary whereby the lender will be reimbursed for losses in an amount not to exceed 15 per centum of the aggregate of such loans made by it, but not to exceed 90 per centum of the loss on any one loan.

(Pub. L. 93-262, title II, § 201, Apr. 12, 1974, 88 Stat. 79; Pub. L. 98-449, § 4, Oct. 4, 1984, 98 Stat. 1725.)

#### AMENDMENTS

1984—Pub. L. 98-449 struck out “who are not members of or eligible for membership in an organization which is making loans to its members” before “; and (b)”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1461 of this title.

#### § 1482. Premium charges; deposits in Indian Loan Guaranty and Insurance Fund

The Secretary shall fix such premium charges for the insurance and guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and deposit receipts from such charges in the Indian Loan Guaranty and Insurance Fund established pursuant to section 1497(a) of this title.

(Pub. L. 93-262, title II, § 202, Apr. 12, 1974, 88 Stat. 79.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

#### § 1483. Interest rate

Loans guaranteed or insured pursuant to this subchapter shall bear interest (exclusive of premium charges for insurance, and service charge, if any) at rates not to exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable

taking into consideration the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(Pub. L. 93-262, title II, § 203, Apr. 12, 1974, 88 Stat. 79.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

#### § 1484. Application for loan; approval by Secretary; issuance of certificate; limitations on amount of loans to individual Indians or economic enterprises; review by Secretary

The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for approval. The Secretary may review each loan application individually and independently from the lender. Upon approval, the Secretary shall issue a certificate as evidence of the guaranty. Such certificate shall be issued only when, in the judgment of the Secretary, there is a reasonable prospect of repayment. No loan to an individual Indian may be guaranteed or insured which would cause the total unpaid principal indebtedness to exceed \$500,000. No loan to an economic enterprise (as defined in section 1452 of this title) in excess of \$100,000, or such lower amount as the Secretary may determine to be appropriate, shall be insured unless prior approval of the loan is obtained from the Secretary.

(Pub. L. 93-262, title II, § 204, Apr. 12, 1974, 88 Stat. 79; Pub. L. 98-449, § 5, Oct. 4, 1984, 98 Stat. 1725; Pub. L. 100-442, § 1, Sept. 22, 1988, 102 Stat. 1763; Pub. L. 101-644, title III, § 303(b), Nov. 29, 1990, 104 Stat. 4668.)

#### AMENDMENTS

1990—Pub. L. 101-644 struck out “prior” before “approval” in first sentence and substituted “may review” for “shall review” in second sentence.

1988—Pub. L. 100-442 substituted “\$500,000” for “\$350,000”.

1984—Pub. L. 98-449 substituted “\$350,000” for “\$100,000”, and inserted after first sentence “The Secretary shall review each loan application individually and independently from the lender.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

#### § 1485. Sale or assignment of loans and underlying security

Any loan guaranteed under this subchapter, including the security given for such loan, may be sold or assigned by the lender to any person.

(Pub. L. 93-262, title II, § 205, Apr. 12, 1974, 88 Stat. 80; Pub. L. 100-442, § 2, Sept. 22, 1988, 102 Stat. 1763.)

#### AMENDMENTS

1988—Pub. L. 100-442 amended section generally. Prior to amendment, section read as follows: “Any loan guaranteed hereunder, including the security given therefor, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

**§ 1486. Loans ineligible for guaranty or insurance**

Loans made by any agency or instrumentality of the Federal Government, or by an organization of Indians from funds borrowed from the United States, and loans the interest on which is not included in gross income for the purposes of chapter 1 of title 26 shall not be eligible for guaranty or insurance hereunder.

(Pub. L. 93-262, title II, §206, Apr. 12, 1974, 88 Stat. 80; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

## AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1488, 1499 of this title.

**§ 1487. Loans eligible for insurance**

Any loans insured hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia, and to loans made by Indian organizations from their own funds to other tribes or organizations of Indians.

(Pub. L. 93-262, title II, §207, Apr. 12, 1974, 88 Stat. 80.)

**§ 1488. Lenders authorized to make loans; decrease or increase of liability under the guaranty**

Loans guaranteed hereunder may be made by any lender satisfactory to the Secretary, except as provided in section 1486 of this title. The liability under the guaranty shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation.

(Pub. L. 93-262, title II, §208, Apr. 12, 1974, 88 Stat. 80.)

**§ 1489. Loans made by certain financial institutions without regard to limitations and restrictions of other Federal statutes with respect to certain particulars**

Any loan made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (a) ratio of amount of loan to the value of the property; (b) maturity of loans; (c) requirement of mortgage or other security; (d) priority of lien; or (e) percentage of assets which may be invested in real estate loans.

(Pub. L. 93-262, title II, §209, Apr. 12, 1974, 88 Stat. 80.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

**§ 1490. Maturity of loans**

The maturity of any loan guaranteed or insured hereunder shall not exceed thirty years.

(Pub. L. 93-262, title II, §210, Apr. 12, 1974, 88 Stat. 80.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

**§ 1491. Defaults; written notification; pro rata payments; subrogation and assignment rights of Secretary; cancellation of uncollectable portion of obligations; forbearance for benefit of borrower; interest or charges cessation date**

In the event of a default of a loan guaranteed hereunder, the holder of the guaranty certificate may immediately notify the Secretary in writing of such default and the Secretary shall thereupon pay to such holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guaranty and receive an assignment of the obligation and security. The Secretary may cancel the uncollectable portion of any obligation, to which he has an assignment or a subrogated right under this section. Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower as may be agreed upon by the parties to the loan and approved by the Secretary. The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(Pub. L. 93-262, title II, §211, Apr. 12, 1974, 88 Stat. 80; Pub. L. 98-449, §6, Oct. 4, 1984, 98 Stat. 1725.)

## AMENDMENTS

1984—Pub. L. 98-449 struck out proviso at end of second sentence which provided that proceedings pursuant to this section shall be effective only after following the procedure set out in section 386a of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

**§ 1492. Claims for losses; submission to Secretary; reimbursement; single and aggregate loss limitations, conditions; assignment of note or judgment; collection or cancellation by Secretary; interest or charges cessation date**

When a lender suffers a loss on a loan insured hereunder, including accrued interest, a claim therefor shall be submitted to the Secretary. If the Secretary finds that the loss has been suffered, he shall reimburse the lender therefor: *Provided*, That the amount payable to the lender for a loss on any one loan shall not exceed 90 per centum of such loss: *Provided further*, That no reimbursement may be made for losses in excess of 15 per centum of the aggregate of insured loans made by the lender: *Provided further*, That before any reimbursement is made, all reasonable collection efforts shall have been exhausted by the lender, and the security for the loan shall have been liquidated to the extent feasible, and the proceeds applied on the debt. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall

be assigned to the United States, and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection action as may be warranted, or may cancel the uncollectable portion of any debt assigned pursuant hereto. The Secretary may establish a date upon which accrual of interest or charges shall cease.

(Pub. L. 93-262, title II, §212, Apr. 12, 1974, 88 Stat. 80.)

**§ 1493. Loan refusal; conditions; prohibition against acquisition of additional loans; payment of claims on loans made in good faith**

Whenever the Secretary finds that any lender or holder of a guaranty certificate fails to maintain adequate accounting records, or to demonstrate proper ability to service adequately loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed or insured hereunder: *Provided*, That the Secretary shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

(Pub. L. 93-262, title II, §213, Apr. 12, 1974, 88 Stat. 81.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

**§ 1494. Evidence of eligibility of loan for and amount of guaranty or insurance; defenses and partial defenses against original lender**

Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and the amount of such guaranty or insurance: *Provided*, That nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

(Pub. L. 93-262, title II, §214, Apr. 12, 1974, 88 Stat. 81.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

**§ 1495. Land and personal property titles**

Title to any land purchased by a tribe or by an individual Indian with loans guaranteed or insured pursuant to this subchapter may be taken in trust, unless the land is located outside the boundaries of a reservation or a tribal consolidation area approved by the Secretary. Title to any land purchased by a tribe or an individual Indian which is outside the boundaries of the reservation or approved consolidation area may be taken in trust if the purchaser was the owner

of trust or restricted interests in the land before the purchase, otherwise title shall be taken in the name of the purchaser without any restriction on alienation, control, or use. Title to any personal property purchased with loans guaranteed or insured hereunder shall be taken in the name of the purchaser.

(Pub. L. 93-262, title II, §215, Apr. 12, 1974, 88 Stat. 81.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

**§ 1496. Powers of Secretary; finality of financial transactions and property acquisitions, management, and dispositions**

The financial transactions of the Secretary incident to or arising out of the guarantee or insurance of loans and surety bonds, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities, shall be final and conclusive upon all officers of the Government. With respect to matters arising out of the guaranty or insurance program authorized by this subchapter, and notwithstanding the provisions of any other laws, the Secretary may—

(a) sue and be sued in his official capacity in any court of competent jurisdiction;

(b) subject to the specific limitations in this subchapter, consent to the modification, with respect to the rate of interest, time of payment on principal or interest or any portion thereof, security, or any other provisions of any note, contract, mortgage, or other instrument securing a loan or surety bond which has been guaranteed or insured hereunder;

(c) subject to the specific limitations in this subchapter, pay, or compromise, any claim on, or arising because of any loan or surety bond guaranty or insurance;

(d) subject to the specific limitations in this subchapter, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including, but not limited to, any equity or right of redemption;

(e) purchase at any sale, public or private, upon such terms and for such prices as he determines to be reasonable, and take title to property, real, personal, or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of such property; and

(f) complete, administer, operate, obtain, and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to the guaranty or insurance program authorized by this subchapter.

(Pub. L. 93-262, title II, §216, Apr. 12, 1974, 88 Stat. 81; Pub. L. 100-442, §5(c), Sept. 22, 1988, 102 Stat. 1764.)

AMENDMENTS

1988—Pub. L. 100-442 inserted “and surety bonds” after “of loans” in introductory text, “or surety” after “a loan” in par. (b), and “or surety” after “any loan” in par. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1499 of this title.

## § 1497. Indian Loan Guaranty and Insurance Fund

### (a) Establishment of revolving fund

There is hereby created an Indian Loan Guaranty and Insurance Fund (hereinafter referred to as the “fund”) which shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this subchapter.

### (b) Aggregate loans or surety bonds limitation

The Secretary may use the fund for the purpose of fulfilling the obligations with respect to loans or surety bonds guaranteed or insured under this subchapter, but the aggregate of such loans or surety bonds which are insured or guaranteed by the Secretary shall be limited to \$500,000,000.

### (c) Assets, liabilities, and obligations of fund; loan and surety bond servicing and purchasing agreements; terms and conditions

All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the fund; and all liabilities and obligations of such assets shall be liabilities and obligations of the fund. The Secretary is authorized to make agreements with respect to servicing loans or surety bonds held, guaranteed, or insured by him under this subchapter and purchasing such guaranteed or insured loans or surety bonds on such terms and conditions as he may prescribe.

### (d) Utilization of fund for diverse payments

The Secretary may also utilize the fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans or surety bonds which are guaranteed or insured under this subchapter or held by the Secretary, to acquire such security property at foreclosure sale or otherwise, and to pay administrative expenses.

### (e) Authorization of appropriations

There are authorized to be appropriated for each fiscal year beginning in fiscal year 1985 such sums as may be necessary to fulfill obligations with respect to losses on loans or surety bonds guaranteed or insured under this subchapter. All collections and all moneys appropriated pursuant to the authority of this subsection shall remain available until expended.

### (f) Deficiencies in fund; notice to Congress

If the Secretary determines that the amount in the fund is not sufficient to maintain an adequate level of reserves necessary to meet the responsibilities of the fund in connection with losses on loans or surety bonds guaranteed or insured under this subchapter, the Secretary shall promptly submit a report notifying Congress of the deficiencies in the fund.

(Pub. L. 93-262, title II, §217, Apr. 12, 1974, 88 Stat. 82; Pub. L. 98-449, §7, Oct. 4, 1984, 98 Stat. 1725; Pub. L. 100-442, §§3, 4(a), (b), 5(d), Sept. 22, 1988, 102 Stat. 1763, 1764.)

## AMENDMENTS

1988—Subsec. (b). Pub. L. 100-442, §§3, 5(d), inserted “or surety bonds” after “loans” in two places and substituted “\$500,000,000” for “\$200,000,000”.

Subsecs. (c), (d). Pub. L. 100-442, §5(d), inserted “or surety bonds” after “loans” wherever appearing.

Subsec. (e). Pub. L. 100-442, §§4(a), 5(d), inserted “or surety bonds” after “loans” and substituted “All collections and all moneys appropriated pursuant to the authority of this subsection shall remain available” for “All collections shall remain”.

Subsec. (f). Pub. L. 100-442, §4(b), added subsec. (f).

1984—Subsec. (e). Pub. L. 98-449 added subsec. (e).

## LIMITATION ON NEW CREDIT AUTHORITY

Section 4(c) of Pub. L. 100-442 provided that: “Any new credit authority (as defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 622]) which is provided by amendments made by this Act [enacting sections 1497a, 1499, and 1544 of this title and amending this section and sections 1452, 1484, 1485, 1496, and 1498 of this title] shall be effective only to such extent and in such amounts as may be approved in advance in appropriation Acts.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1482, 1497a, 1499 of this title.

## § 1497a. Supplemental surety bond guarantee

### (a) Amount; eligibility

The Secretary is authorized to provide a supplemental surety bond guarantee, not to exceed 20 percent of any loss, for any Indian individual or economic enterprise eligible for a surety guarantee under section 694b of title 15, so that the aggregate of the two guarantees is 100 percent.

### (b) Conditions

The Secretary may provide a supplemental guarantee under this section only if the Secretary determines that—

(1) the Indian individual or economic enterprise has secured or will likely secure a surety bond guarantee under section 694b of title 15;

(2) the supplemental guarantee is necessary for the Indian individual or economic enterprise to secure a surety bond;

(3) no more than 25 percent of the surety’s business is comprised of bonds guaranteed pursuant to this section; and

(4) the surety will provide appropriate technical assistance and advice to, and monitor the performance of, the Indian individual or economic enterprise for the prevention or mitigation of a loss.

### (c) Fees and charges

The rules and regulations promulgated by the Secretary to carry out this section shall include the setting of reasonable fees to be paid by the Indian individual or economic enterprise and reasonable premium charges to be paid by sureties. In setting fees and charges, the Secretary may take into consideration the cost to the surety of providing the services required by paragraph (4) of subsection (b) of this section. The receipts from the fees and charges shall be deposited in the Fund established by section 1497(a) of this title.

(Pub. L. 93-262, title II, §218, as added Pub. L. 100-442, §5(a), Sept. 22, 1988, 102 Stat. 1764.)

## PRIOR PROVISIONS

A prior section 218 of Pub. L. 93-262 was renumbered section 219 by Pub. L. 100-442 and is classified to section 1498 of this title.

**§ 1498. Rules and regulations**

The Secretary shall promulgate rules and regulations to carry out the provisions of this subchapter.

(Pub. L. 93-262, title II, § 219, formerly § 218, Apr. 12, 1974, 88 Stat. 82; renumbered § 219, Pub. L. 100-442, § 5(a), Sept. 22, 1988, 102 Stat. 1764.)

**§ 1499. Limitation on guarantee of debt issues; approval of bond issue sale**

(a) The Secretary may guarantee not to exceed 90 percent of the unpaid principal and interest due on an issue of bonds, debentures, or similar obligations issued by an organization satisfactory to the Secretary. Such an issue shall be deemed a loan for purposes of sections 1482, 1483, 1484, 1485, 1486, 1489, 1490, 1491, 1493, 1494, 1495, 1496, and 1497 of this title.

(b) The method by which an issue of bonds guaranteed under this section may be sold shall be subject to approval by the Secretary.

(Pub. L. 93-262, title II, § 220, as added Pub. L. 100-442, § 6, Sept. 22, 1988, 102 Stat. 1764.)

SUBCHAPTER III—INTEREST SUBSIDIES  
AND ADMINISTRATIVE EXPENSES**§ 1511. Interest subsidies; rules and regulations**

The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranteed or insured under the provisions of subchapter II of this chapter amounts which are necessary to reduce the rate payable by the borrower to the rate determined under section 1464 of this title.

(Pub. L. 93-262, title III, § 301, Apr. 12, 1974, 88 Stat. 82.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1461 of this title.

**§ 1512. Authorization of appropriations for interest payments**

There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, an amount which does not exceed \$5,500,000 for purposes of making interest payments authorized under this subchapter. Sums appropriated under this section, shall remain available until expended.

(Pub. L. 93-262, title III, § 302, Apr. 12, 1974, 88 Stat. 82; Pub. L. 98-449, § 8, Oct. 4, 1984, 98 Stat. 1725.)

## AMENDMENTS

1984—Pub. L. 98-449 amended section generally, substituting provisions authorizing appropriations for payment of interest under this subchapter for provisions authorizing appropriations for the Indian Loan Guarantee and Insurance Fund, interest subsidies and administrative expenses.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1543 of this title.

SUBCHAPTER IV—INDIAN BUSINESS  
GRANTS

## SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1541 of this title.

**§ 1521. Indian Business Development Program; establishment; statement of purpose**

There is established within the Department of the Interior the Indian Business Development Program whose purpose is to stimulate and increase Indian entrepreneurship and employment by providing equity capital through nonreimbursable grants made by the Secretary of the Interior to Indians and Indian tribes to establish and expand profit-making Indian-owned economic enterprises on or near reservations.

(Pub. L. 93-262, title IV, § 401, Apr. 12, 1974, 88 Stat. 82.)

**§ 1522. Conditions****(a) Limitation of amount**

No grant in excess of \$100,000 in the case of an Indian and \$250,000 in the case of an Indian tribe, or such lower amount as the Secretary may determine to be appropriate, may be made under this subchapter.

**(b) Financing from other sources; inability to obtain funds; applicant's financial resources**

A grant may be made only to an applicant who, in the opinion of the Secretary, is unable to obtain adequate financing for its economic enterprise from other sources: *Provided*, That prior to making any grant under this subchapter, the Secretary shall assure that, where practical, the applicant has reasonably made available for the economic enterprise funds from the applicant's own financial resources.

**(c) Percentage requirement**

No grant may be made to an applicant who is unable to obtain at least 60 per centum of the necessary funds for the economic enterprise from other sources.

(Pub. L. 93-262, title IV, § 402, Apr. 12, 1974, 88 Stat. 83; Pub. L. 98-449, § 9, Oct. 4, 1984, 98 Stat. 1725.)

## AMENDMENTS

1984—Subsec. (a). Pub. L. 98-449 amended subsec. (a) generally, substituting provisions setting forth different levels of maximum grant amounts in cases of Indians and Indian tribes for provisions providing a maximum of \$50,000 in cases of both Indians and Indian tribes.

**§ 1523. Authorization of appropriations**

There are authorized to be appropriated not to exceed the sum of \$10,000,000 per year for fiscal year 1986 and each fiscal year thereafter for the purposes of this subchapter.

(Pub. L. 93-262, title IV, § 403, Apr. 12, 1974, 88 Stat. 83; Pub. L. 95-68, July 20, 1977, 91 Stat. 272; Pub. L. 98-449, § 10, Oct. 4, 1984, 98 Stat. 1726.)

## AMENDMENTS

1984—Pub. L. 98-449 amended section generally, substituting “\$10,000,000” for “\$14,000,000” and “1986 and each fiscal year thereafter” for “1978 and 1979”.



1977—Pub. L. 95-68 substituted “\$14,000,000 for each of the fiscal years 1978 and 1979” for “\$10,000,000 for each of the fiscal years 1975, 1976, and 1977”.

#### § 1524. Rules and regulations

The Secretary of the Interior is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this chapter.

(Pub. L. 93-262, title IV, §404, Apr. 12, 1974, 88 Stat. 83.)

#### SUBCHAPTER V—MISCELLANEOUS PROVISIONS

#### § 1541. Competent management and technical assistance for economic enterprises

Prior to and concurrent with the making or guaranteeing of any loan under subchapters I and II of this chapter and with the making of a grant under subchapter IV of this chapter, the purpose of which is to fund the development of an economic enterprise, the Secretary shall insure that the loan or grant applicant shall be provided competent management and technical assistance for preparation of the application and/or administration of funds granted consistent with the nature of the enterprise proposed to be or in fact funded.

(Pub. L. 93-262, title V, §501, Apr. 12, 1974, 88 Stat. 83; Pub. L. 98-449, §12, Oct. 4, 1984, 98 Stat. 1726.)

#### AMENDMENTS

1984—Pub. L. 98-449 amended section generally, inserting “Prior to and” and “for preparation of the application and/or administration of funds granted”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1542 of this title.

#### § 1542. Agency cooperation; private contracts for management services and technical assistance

For the purpose of providing the assistance required under section 1541 of this title, the Secretary is authorized to cooperate with the Small Business Administration and the Corporation for National and Community Service and other Federal agencies in the use of existing programs of this character in those agencies. In addition, the Secretary is authorized to enter into contracts with private organizations for providing such services and assistance.

(Pub. L. 93-262, title V, §502, Apr. 12, 1974, 88 Stat. 83; Pub. L. 93-113, title VI, §601(d), Oct. 1, 1973, 87 Stat. 416; Pub. L. 103-82, title IV, §405(f), Sept. 21, 1993, 107 Stat. 921.)

#### AMENDMENTS

1993—Pub. L. 103-82 substituted “the Corporation for National and Community Service” for “ACTION Agency”.

1973—Pub. L. 93-113 substituted “ACTION Agency” for “ACTION”.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103-82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1543 of this title.

#### § 1543. Funds limitation for private contracts

For the purpose of entering into contracts pursuant to section 1542 of this title in fiscal year 1985, the Secretary is authorized to use not to exceed 6 percent of any funds appropriated for any fiscal year pursuant to section 1512 of this title. For fiscal year 1986 and for each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 93-262, title V, §503, Apr. 12, 1974, 88 Stat. 83; Pub. L. 98-449, §13, Oct. 4, 1984, 98 Stat. 1726.)

#### AMENDMENTS

1984—Pub. L. 98-449 amended section generally, substituting provisions limiting funds expended for private contracts to 6 percent of appropriated funds in 1985 and authorizing the appropriation of such sums as may be necessary to carry out this subchapter in fiscal years after 1985 for provisions putting a 5 percent limitation on use of appropriated funds.

#### § 1544. Additional compensation to contractors of Federal agency

Notwithstanding any other provision of law, a contractor of a Federal agency under any Act of Congress may be allowed an additional amount of compensation equal to 5 percent of the amount paid, or to be paid, to a subcontractor or supplier, in carrying out the contract if such subcontractor or supplier is an Indian organization or Indian-owned economic enterprise as defined in this chapter.

(Pub. L. 93-262, title V, §504, added Pub. L. 100-442, §7, Sept. 22, 1988, 102 Stat. 1765.)

### CHAPTER 18—INDIAN HEALTH CARE

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## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 450l of this title; title 40 section 276d-3.

## GENERAL PROVISIONS

## § 1601. Congressional findings

The Congress finds the following:

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and inci-

dence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States.

(Pub. L. 94-437, §2, Sept. 30, 1976, 90 Stat. 1400; Pub. L. 102-573, §3(a), Oct. 29, 1992, 106 Stat. 4526.)

#### AMENDMENTS

1992—Pub. L. 102-573 substituted “finds the following:” for “finds that—” in introductory provisions and struck out last sentence of subsec. (d) which compared death rates of Indians to those of all Americans for tuberculosis, influenza and pneumonia, and compared death rates for infants, subsec. (e) which related to threat to fulfillment of Federal responsibility to Indians posed by low health status of American Indian people, subsec. (f) which enumerated causes imperiling improvements in Indian health, and subsec. (g) which related to confidence of Indian people in Federal Indian health services.

#### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-313, §1(a), Oct. 19, 1996, 110 Stat. 3820, provided that: “This Act [amending sections 1603, 1613a, 1621j, 1645, 1665e, 1665j, and 1680k of this title] may be cited as the ‘Indian Health Care Improvement Technical Corrections Act of 1996’.”

#### SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102-573 provided that: “This Act [see Tables for classification] may be cited as the ‘Indian Health Amendments of 1992’.”

#### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-630, title V, §501, Nov. 28, 1990, 104 Stat. 4556, provided that: “This title [enacting sections 1621h, 1637, 1659, and 1660 of this title, amending sections 1653, 1657, and 2474 of this title, and enacting provisions set out as notes under sections 1621h, 1653, and 2415 of this title] may be cited as the ‘Indian Health Care Amendments of 1990’.”

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-713, §1, Nov. 23, 1988, 102 Stat. 4784, provided that: “This Act [enacting sections 1616 to 1616j, 1621a to 1621g, 1636, 1651 to 1658, 1661, 1662, and 1680a to 1680j of this title and sections 254s and 295j of Title 42, The Public Health and Welfare, amending sections 1603, 1612 to 1613a, 1614, 1615, 1621, 1631, 1632, 1634, 1674, 1676, and 1678 to 1680 of this title and section 5316 of Title 5, Government Organization and Employees, repealing section 1635 of this title and section 254r of Title 42, enacting provisions set out as notes under this section and sections 1611, 1621b, 1661, and 1677 of this title and sections 254r, 1395qq, and 1396j of Title 42, amending provisions set out as a note under section 1396j of Title 42, and repealing provisions set out as a note under section 1396j of Title 42] may be cited as the ‘Indian Health Care Amendments of 1988’.”

#### SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-537, §1(a), Dec. 17, 1980, 94 Stat. 3173, provided that: “this Act [enacting sections 1622, 1634, and 1676 to 1680 of this title, amending sections 1603, 1612 to 1614, 1621, 1651 to 1657, and 1674 of this title and section 294y-1 of Title 42, The Public Health and Welfare, and repealing section 1658 of this title] may be cited as the ‘Indian Health Care Amendments of 1980’.”

#### SHORT TITLE

Section 1 of Pub. L. 94-437 provided: “That this Act [enacting this chapter and sections 1395qq and 1396j of

Title 42, The Public Health and Welfare, amending sections 234, 1395f, 1395n, and 1396d of Title 42, and enacting provisions set out as notes under section 1671 of this title and sections 1395qq and 1396j of Title 42] may be cited as the ‘Indian Health Care Improvement Act’.”

#### SEPARABILITY

Pub. L. 100-713, title VIII, §801, Nov. 23, 1988, 102 Stat. 4839, provided that: “If any provision of this Act, any amendment made by this Act [see Short Title of 1988 Amendment note above], or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.”

#### AVAILABILITY OF APPROPRIATIONS

Pub. L. 100-713, §4, Nov. 23, 1988, 102 Stat. 4785, provided that: “Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)(A), (B)]) which is provided under this Act [see Short Title of 1988 Amendment note above] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.”

### § 1602. Declaration of health objectives

(a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.

(b) It is the intent of the Congress that the Nation meet the following health status objectives with respect to Indians and urban Indians by the year 2000:

(1) Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.

(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

(4) Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.

(5) Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.

(6) Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000.

(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

(9) Reduce drug-related deaths to no more than 3 per 100,000.

(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

(11) Reduce suicide among men to no more than 12.8 per 100,000.

(12) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

(13) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

(14) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

(15) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

(16) Increase years of healthy life to at least 65 years.

(17) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

(18) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

(19) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.

(20) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 40 percent among adolescents aged 15.

(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.

(25) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

(26) Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.

(27) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

(28) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

(29) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

(30) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

(31) Reduce stroke deaths to no more than 20 per 100,000.

(32) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

(33) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

(34) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

(35) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

(36) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

(38) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

(39) Reduce diabetes-related deaths to no more than 48 per 100,000.

(40) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

(41) Reduce the most severe complications of diabetes as follows:

(A) End-stage renal disease, 1.9 per 1,000.

(B) Blindness, 1.4 per 1,000.

(C) Lower extremity amputation, 4.9 per 1,000.

(D) Perinatal mortality, 2 percent.

(E) Major congenital malformations, 4 percent.

(42) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

(43) Confine the prevalence of HIV infection to no more than 100 per 100,000.

(44) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

(45) Reduce chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

(46) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

(47) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

(48) Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.

(49) Reduce indigenous cases of vaccine-preventable diseases as follows:

(A) Diphtheria among individuals aged 25 and younger, 0.

(B) Tetanus among individuals aged 25 and younger, 0.

(C) Polio (wild-type virus), 0.

(D) Measles, 0.

(E) Rubella, 0.

(F) Congenital Rubella Syndrome, 0.

(G) Mumps, 500.

(H) Pertussis, 1,000.

(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

(51) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

(52) Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.

(53) Reduce bacterial meningitis to no more than 8 cases per 100,000.

(54) Reduce infectious diarrhea by at least 25 percent among children.

(55) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

(56) Reduce cigarette smoking to a prevalence of no more than 20 percent.

(57) Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.

(58) Increase to at least 65 percent the proportion of parents and caregivers who use

feeding practices that prevent baby bottle tooth decay.

(59) Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

(60) Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.

(61) Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

(c) It is the intent of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health profession fields awarded to Indians to 0.6 percent.

(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b) of this section.

(Pub. L. 94-437, §3, Sept. 30, 1976, 90 Stat. 1401; Pub. L. 102-573, §3(b), Oct. 29, 1992, 106 Stat. 4526.)

#### AMENDMENTS

1992—Pub. L. 102-573 amended section generally. Prior to amendment, section read as follows: "The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616f, 1621, 1621b, 1621m, 1665g, 1671 of this title.

### § 1603. Definitions

For purposes of this chapter—

(a) "Secretary", unless otherwise designated, means the Secretary of Health and Human Services.

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) of this section, except that, for the purpose of sections 1612 and 1613 of this title, such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or

(3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) of this section, and who meets one or more of the four criteria in subsection (c)(1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under subchapter IV of this chapter, as determined by the Secretary.

(h) "Urban Indian organization" means a non-profit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 1653(a) of this title.

(i) "Area office" means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

(j) "Service unit" means—

(1) an administrative entity within the Indian Health Service, or

(2) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.],

through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

(k) "Health promotion" includes—

(1) cessation of tobacco smoking,

(2) reduction in the misuse of alcohol and drugs,

(3) improvement of nutrition,

(4) improvement in physical fitness,

(5) family planning,

(6) control of stress, and

(7) pregnancy and infant care (including prevention of fetal alcohol syndrome).

(l) "Disease prevention" includes—

(1) immunizations,



- (2) control of high blood pressure,
- (3) control of sexually transmittable diseases,
- (4) prevention and control of diabetes,
- (5) control of toxic agents,
- (6) occupational safety and health,
- (7) accident prevention,
- (8) fluoridation of water, and
- (9) control of infectious agents.

(m) "Service area" means the geographical area served by each area office.

(n) "Health profession" means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, an allied health profession, or any other health profession.

(o) "Substance abuse" includes inhalant abuse.

(p) "FAE" means fetal alcohol effect.

(q) "FAS" means fetal alcohol syndrome.

(Pub. L. 94-437, § 4, Sept. 30, 1976, 90 Stat. 1401; Pub. L. 96-537, § 2, Dec. 17, 1980, 94 Stat. 3173; Pub. L. 100-713, title II, §§ 201(b), 203(b), title V, § 502, Nov. 23, 1988, 102 Stat. 4803, 4804, 4824; Pub. L. 102-573, § 3(c), title IX, § 902(1), Oct. 29, 1992, 106 Stat. 4529, 4591; Pub. L. 104-313, § 2(a), Oct. 19, 1996, 110 Stat. 3820.)

#### REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (d), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43, and Tables.

The Indian Self-Determination Act, referred to in subsec. (j)(2), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

1996—Subsec. (n). Pub. L. 104-313 inserted "allopathic medicine," before "family medicine" and substituted "an allied health profession, or any other health profession" for "and allied health professions".

1992—Subsec. (c). Pub. L. 102-573, § 902(1), substituted "sections 1612 and 1613 of this title" for "sections 1612, 1613, and 1621(c)(5) of this title".

Subsecs. (m) to (q). Pub. L. 102-573, § 3(c), added subsecs. (m) to (q).

1988—Subsec. (h). Pub. L. 100-713, § 502, inserted "urban" after "governed by an".

Subsec. (i). Pub. L. 100-713, § 201(b), added subsec. (i) and struck out former subsec. (i) which defined "rural Indian".

Subsec. (j). Pub. L. 100-713, § 201(b), added subsec. (j) and struck out former subsec. (j) which defined "rural community".

Subsec. (k). Pub. L. 100-713, §§ 201(b), 203(b), added subsec. (k) and struck out former subsec. (k) which defined "rural Indian organization".

Subsec. (l). Pub. L. 100-713, § 203(b), added subsec. (l).  
1980—Subsec. (a). Pub. L. 96-537, § 2(a), substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

Subsec. (h). Pub. L. 96-537, § 2(b), substituted "governed by an Indian controlled board of directors" for "composed of urban Indians".

Subsecs. (i) to (k). Pub. L. 96-537, § 2(c), added subsecs. (i) to (k).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1656, 1934, 2403 of this title; title 42 sections 1395qq, 1396d, 1396j, 1396s.

### SUBCHAPTER I—INDIAN HEALTH PROFESSIONAL PERSONNEL

#### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1621h, 1661 of this title.

### § 1611. Congressional statement of purpose

The purpose of this subchapter is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.

(Pub. L. 94-437, title I, § 101, Sept. 30, 1976, 90 Stat. 1402; Pub. L. 102-573, title I, § 101, Oct. 29, 1992, 106 Stat. 4530.)

#### AMENDMENTS

1992—Pub. L. 102-573 amended section generally. Prior to amendment, section read as follows: "The purpose of this subchapter is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians."

#### ADVISORY PANEL AND REPORT ON RECRUITMENT AND RETENTION

Pub. L. 100-713, title I, § 110, Nov. 23, 1988, 102 Stat. 4800, directed Secretary of Health and Human Services to establish an advisory panel composed of 10 physicians or other health professionals who are employees of, or assigned to, the Indian Health Service, 3 representatives of tribal health boards, and 1 representative of an urban health care organization, such advisory panel to conduct an investigation of (1) administrative policies and regulatory procedures which impede recruitment or retention of physicians and other health professionals by Indian Health Service, and (2) regulatory changes necessary to establish pay grades for health professionals employed by, or assigned to, the Service that correspond to the pay grades established for positions provided under 38 U.S.C. 4103 and 4104 and costs associated with establishing such pay grades, and, no later than the date that is 18 months after Nov. 23, 1988, to submit to Congress a report on the investigation, together with any recommendations for administrative or legislative changes in existing law, practices, or procedures.

### § 1612. Health professions recruitment program for Indians

#### (a) Grants for education and training

The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

- (1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

(A) to enroll in courses of study in such health professions; or

(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) of this subsection or who are undertaking training necessary to qualify them to enroll in any such course of study; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1) of this subsection.

**(b) Application for grant; submittal and approval; preference; payment**

(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary shall give a preference to applications submitted by Indian tribes or tribal organizations.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

(Pub. L. 94-437, title I, §102, Sept. 30, 1976, 90 Stat. 1402; Pub. L. 96-537, §3(a), Dec. 17, 1980, 94 Stat. 3173; Pub. L. 100-713, title I, §101, Nov. 23, 1988, 102 Stat. 4785; Pub. L. 102-573, title I, §§102(a), 117(b)(1), title IX, §902(2)(A), Oct. 29, 1992, 106 Stat. 4530, 4544, 4591.)

**AMENDMENTS**

1992—Subsec. (a)(1). Pub. L. 102-573, §102(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any such school, to undertake such post-secondary education or training as may be required to qualify them for enrollment;”.

Subsec. (a)(2). Pub. L. 102-573, §102(a)(2), substituted “course of study” for “school” in two places and “paragraph (1)” for “clause (1)(A)”.

Subsec. (a)(3). Pub. L. 102-573, §102(a)(3), substituted “enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1) of this subsection” for “enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection”.

Subsec. (b)(1). Pub. L. 102-573, §902(2)(A), substituted “prescribe. The Secretary shall” for “: *Provided*, That the Secretary shall”.

Subsec. (c). Pub. L. 102-573, §117(b)(1), struck out subsec. (c) which authorized appropriations for fiscal years 1989 to 1992.

1988—Subsec. (c). Pub. L. 100-713 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated \$900,000 for fiscal year 1978, \$1,500,000 for

fiscal year 1979, and \$1,800,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section \$2,300,000 for the fiscal year ending September 30, 1981, \$2,600,000 for the fiscal year ending September 30, 1982, \$3,000,000 for the fiscal year ending September 30, 1983, and \$3,500,000 for the fiscal year ending September 30, 1984.”

1980—Subsec. (c). Pub. L. 96-537 substituted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriation of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1603 of this title.

**§ 1613. Health professions preparatory scholarship program for Indians**

**(a) Requirements**

The Secretary, acting through the Service, shall make scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in the health professions.

**(b) Purposes and duration of grants; pre-professional and pregraduate education**

Scholarship grants made pursuant to this section shall be for the following purposes:

(1) Compensatory preprofessional education of any grantee, such scholarship not to exceed two years on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary).

(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).

**(c) Covered expenses**

Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses of a grantee while attending school.

**(d) Basis for denial of assistance**

The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution.

**(e) Eligibility for assistance under other Federal programs**

The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

(Pub. L. 94-437, title I, §103, Sept. 30, 1976, 90 Stat. 1403; Pub. L. 96-537, §3(b), Dec. 17, 1980, 94 Stat. 3174; Pub. L. 100-713, title I, §102, Nov. 23, 1988, 102 Stat. 4785; Pub. L. 102-573, title I, §102(b), Oct. 29, 1992, 106 Stat. 4530.)

**AMENDMENTS**

1992—Subsec. (a)(2). Pub. L. 102-573, §102(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read

as follows: “have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.”

Subsec. (b)(1). Pub. L. 102-573, §102(b)(2), inserted before period at end “on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)”.

Subsec. (b)(2). Pub. L. 102-573, §102(b)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Pregraduate education of any grantee leading to a baccalaureate degree in an approved premedicine, predentistry, preosteopathy, preveterinary medicine, preoptometry, or prepodiatry curriculum, such scholarship not to exceed four years.”

Subsec. (c). Pub. L. 102-573, §102(b)(4), struck out “full time” after “while attending school”.

Subsec. (e). Pub. L. 102-573, §102(b)(5), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

“(1) \$3,000,000 for fiscal year 1989,

“(2) \$3,700,000 for fiscal year 1990,

“(3) \$4,400,000 for fiscal year 1991, and

“(4) \$5,100,000 for fiscal year 1992.”

1988—Subsec. (c). Pub. L. 100-713, §102(b), inserted “of a grantee while attending school full time” after “expenses”.

Subsecs. (d), (e). Pub. L. 100-713, §102(a), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: “There are authorized to be appropriated for the purpose of this section: \$800,000 for fiscal year 1978, \$1,000,000 for fiscal year 1979, and \$1,300,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section \$3,510,000 for the fiscal year ending September 30, 1981, \$4,000,000 for the fiscal year ending September 30, 1982, \$4,620,000 for the fiscal year ending September 30, 1983, and \$5,300,000 for the fiscal year ending September 30, 1984.”

1980—Subsec. (b). Pub. L. 96-537, §3(b)(1), substituted provisions specifying in pars. (1) and (2), purposes for which scholarship grants could be made, for provisions that the scholarship grant shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of the grantee.

Subsec. (d). Pub. L. 96-537, §3(b)(2), substituted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriations of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1603 of this title.

### § 1613a. Indian health professions scholarships

#### (a) General authority

In order to provide health professionals to Indians, Indian tribes, tribal organizations, and urban Indian organizations, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full or part time in appropriately accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 254f of title 42, except as provided in subsection (b) of this section.

#### (b) Recipients; active duty service obligation

(1) The Secretary, acting through the Service, shall determine who shall receive scholarships under subsection (a) of this section and shall determine the distribution of such scholarships

among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

(2) An individual shall be eligible for a scholarship under subsection (a) of this section in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a) of this section.

(3)(A) The active duty service obligation under a written contract with the Secretary under section 254f of title 42 that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—

(i) in the Indian Health Service;

(ii) in a program conducted under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(iii) in a program assisted under subchapter IV of this chapter;<sup>1</sup>

(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians; or<sup>2</sup>

(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).

(C) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation described in subparagraph (A) by service in a program specified in that subparagraph that—

(i) is located on the reservation of the tribe in which the recipient is enrolled; or

(ii) serves the tribe in which the recipient is enrolled.

(D) Subject to subparagraph (C), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in subparagraph (A), shall give priority to assigning

<sup>1</sup> So in original. Probably should be followed by “or”.

<sup>2</sup> So in original. The “; or” probably should be a period.

individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—

(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

(ii) two years; and

(C) the amount of the monthly stipend specified in section 254(g)(1)(B) of title 42 shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

(5)(A) An individual who has, on or after October 29, 1992, entered into a written contract with the Secretary under this section and who—

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(ii) is dismissed from such educational institution for disciplinary reasons,

(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (I) of section 1616a of this title in the manner provided for in such subsection.

(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

(i) it is not possible for the recipient to meet that obligation or make that payment;

(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

#### (c) Placement Office

The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 254m of title 42 without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy.

(Pub. L. 94-437, title I, §104, as added Pub. L. 100-713, title I, §104(a), Nov. 23, 1988, 102 Stat. 4786; amended Pub. L. 102-573, title I, §§102(c), 103, Oct. 29, 1992, 106 Stat. 4531, 4532; Pub. L. 104-313, §2(b), Oct. 19, 1996, 110 Stat. 3820.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(3)(A)(ii), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 104 of Pub. L. 94-437, title I, Sept. 30, 1976, 90 Stat. 1403, amended former section 234 of Title 42, The Public Health and Welfare.

#### AMENDMENTS

1996—Subsec. (b)(3)(A). Pub. L. 104-313, §2(b)(1)(A), substituted “The active duty service obligation under a written contract with the Secretary under section 254I of title 42 that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—” for “The active duty service obligation prescribed under section 254m of title 42 shall be met by a recipient of an Indian Health Scholarship by service—” in introductory provisions, struck out “or” at end of cl. (iii), and substituted “; or” for period at end of cl. (iv).

Subsec. (b)(3)(B). Pub. L. 104-313, §2(b)(1)(C), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(3)(C). Pub. L. 104-313, §2(b)(1)(D), substituted “described in subparagraph (A) by service in a program specified in that subparagraph” for “prescribed under section 254m of title 42 by service in a program specified in subparagraph (A)”.

Pub. L. 104-313, §2(b)(1)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(3)(D). Pub. L. 104-313, §2(b)(1)(E), substituted “Subject to subparagraph (C),” for “Subject to

subparagraph (B),” and “described in subparagraph (A)” for “prescribed under section 254m of title 42”.

Pub. L. 104-313, §2(b)(1)(B), redesignated subpar. (C) as (D).

Subsec. (b)(4)(B). Pub. L. 104-313, §2(b)(2)(A), substituted “the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—” for “the period of obligated service specified in section 254(f)(1)(B)(iv) of title 42 shall be equal to the greater of—” in introductory provisions.

Subsec. (b)(4)(C). Pub. L. 104-313, §2(b)(2)(B), made technical amendment to reference in original act which appears in text as reference to section 254(g)(1)(B) of title 42.

Subsec. (b)(5)(C) to (F). Pub. L. 104-313, §2(b)(3), added subpars. (C) to (F).

1992—Subsec. (a). Pub. L. 102-573, §102(c)(1)(C), substituted “accredited schools and pursuing courses of study in the health professions” for “accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health and engineering, nursing, optometry, public health, allied health professions, and social work”.

Pub. L. 102-573, §102(c)(1)(A), (B), substituted “Indians, Indian tribes, tribal organizations, and urban Indian organizations” for “Indian communities” and “full or part time” for “full time”.

Subsec. (b)(2). Pub. L. 102-573, §102(c)(2)(A), substituted “full or part time” for “full time” and “course of study” for “health profession school”.

Subsec. (b)(3). Pub. L. 102-573, §102(c)(2)(B), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, and added subpars. (B) and (C).

Subsec. (b)(4). Pub. L. 102-573, §102(c)(2)(C), added par. (4).

Subsec. (b)(5). Pub. L. 102-573, §103, added par. (5).

Subsec. (c). Pub. L. 102-573, §102(c)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “For purposes of this section, the term ‘Indian’ has the same meaning given that term by subsection (c) of section 1603 of this title, including all individuals described in clauses (1) through (4) of that subsection.”

Subsec. (d). Pub. L. 102-573, §102(c)(4), struck out subsec. (d) which authorized appropriations for fiscal years 1989 to 1992.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 102(d) of Pub. L. 102-573 provided that: “The amendments made by subsection (c)(1)(C) and subsection (c)(2)(B) [amending this section] shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act [this section] after the date of the enactment of this Act [Oct. 29, 1992].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1614, 1616a, 1616a-1, 1616m of this title.

### § 1614. Indian health service extern programs

#### (a) Employment of scholarship grantees during nonacademic periods

Any individual who receives a scholarship grant pursuant to section 1613a of this title shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

#### (b) Employment of medical and other students during nonacademic periods

Any individual enrolled in a course of study in the health professions may be employed by the

Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

#### (c) Employment without regard to competitive personnel system or agency personnel limitation; compensation

Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health and Human Services.

(Pub. L. 94-437, title I, §105, Sept. 30, 1976, 90 Stat. 1404; Pub. L. 95-83, title III, §307(n)(2), Aug. 1, 1977, 91 Stat. 393; Pub. L. 96-537, §3(c), Dec. 17, 1980, 94 Stat. 3174; Pub. L. 100-713, title I, §103, Nov. 23, 1988, 102 Stat. 4786; Pub. L. 102-573, title I, §§102(e), 117(b)(2), title IX, §902(2)(B), Oct. 29, 1992, 106 Stat. 4532, 4544, 4591.)

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, §102(e)(1), substituted “section 1613a of this title” for “section 254r of title 42”.

Subsec. (b). Pub. L. 102-573, §102(e)(2), substituted “course of study in the health professions” for “school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions”.

Subsec. (c). Pub. L. 102-573, §902(2)(B), substituted “Department of Health and Human Services” for “Department of Health, Education, and Welfare”.

Subsec. (d). Pub. L. 102-573, §117(b)(2), struck out subsec. (d) which authorized appropriations for fiscal years 1989 to 1992.

1988—Subsec. (d). Pub. L. 100-713 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “There are authorized to be appropriated for the purpose of this section: \$600,000 for fiscal year 1978, \$800,000 for fiscal year 1979, and \$1,000,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section \$990,000 for the fiscal year ending September 30, 1981, \$1,140,000 for the fiscal year ending September 30, 1982, \$1,310,000 for the fiscal year ending September 30, 1983, and \$1,510,000 for the fiscal year ending September 30, 1984.”

1980—Subsec. (d). Pub. L. 96-537 substituted provisions authorizing appropriations of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriation of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

1977—Subsec. (a). Pub. L. 95-83 substituted reference to “section 294y-1 of title 42” for reference to “section 104” meaning section 104 of Pub. L. 94-437, which added section 234(i)(2) of Title 42, The Public Health and Welfare.

### § 1615. Continuing education allowances

#### (a) Discretionary authority; scope of activities

In order to encourage physicians, dentists, nurses, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a

significant portion of the Indian people resides, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

**(b) Limitation**

Of amounts appropriated under the authority of this subchapter for each fiscal year to be used to carry out this section, not more than \$1,000,000 may be used to establish postdoctoral training programs for health professionals.

(Pub. L. 94-437, title I, §106, Sept. 30, 1976, 90 Stat. 1404; Pub. L. 100-713, title I, §105, Nov. 23, 1988, 102 Stat. 4787; Pub. L. 102-573, title I, §§104(a), 115, Oct. 29, 1992, 106 Stat. 4533, 4543.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, §104(a), inserted “nurses,” after “physicians, dentists,”.

Subsec. (b). Pub. L. 102-573, §115, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

“(1) \$500,000 for fiscal year 1989,

“(2) \$526,300 for fiscal year 1990,

“(3) \$553,800 for fiscal year 1991, and

“(4) \$582,500 for fiscal year 1992.”

1988—Subsec. (b). Pub. L. 100-713 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated for the purpose of this section: \$100,000 for fiscal year 1978, \$200,000 for fiscal year 1979, and \$250,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this chapter.”

**§ 1616. Community Health Representative Program**

(a) Under the authority of section 13 of this title, the Secretary shall maintain a Community Health Representative Program under which the Service—

(1) provides for the training of Indians as health paraprofessionals, and

(2) uses such paraprofessionals in the provision of health care, health promotion, and disease prevention services to Indian communities.

(b) The Secretary, acting through the Community Health Representative Program of the Service, shall—

(1) provide a high standard of training for paraprofessionals to Community Health Representatives to ensure that the Community Health Representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program,

(2) in order to provide such training, develop and maintain a curriculum that—

(A) combines education in the theory of health care with supervised practical experience in the provision of health care, and

(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that

have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,

(3) maintain a system which identifies the needs of Community Health Representatives for continuing education in health care, health promotion, and disease prevention and maintain programs that meet the needs for such continuing education,

(4) maintain a system that provides close supervision of Community Health Representatives,

(5) maintain a system under which the work of Community Health Representatives is reviewed and evaluated, and

(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

(Pub. L. 94-437, title I, §107, as added Pub. L. 100-713, title I, §107, Nov. 23, 1988, 102 Stat. 4788; amended Pub. L. 102-573, title I, §105, Oct. 29, 1992, 106 Stat. 4535.)

AMENDMENTS

1992—Subsec. (b)(2). Pub. L. 102-573, §105(1), inserted “and maintain” in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 102-573, §105(2), inserted at end “with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,”.

Subsec. (b)(3). Pub. L. 102-573, §105(3), substituted “maintain” for “develop” in two places.

Subsec. (b)(4). Pub. L. 102-573, §105(4), struck out “develop and” before “maintain”.

Subsec. (b)(5). Pub. L. 102-573, §105(3), substituted “maintain” for “develop”.

**§ 1616a. Indian Health Service Loan Repayment Program**

**(a) Establishment**

(1) The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the “Loan Repayment Program”) in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

(2) For the purposes of this section—

(A) the term “Indian health program” means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

(i) directly by the Service;

(ii) by any Indian tribe or tribal or Indian organization pursuant to a contract under—

(I) the Indian Self-Determination Act [25 U.S.C. 450f et seq.], or

(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the “Buy-Indian” Act; or

(iii) by an urban Indian organization pursuant to subchapter IV of this chapter; and

(B) the term “State” has the same meaning given such term in section 254d(i)(4) of title 42.

**(b) Eligibility**

To be eligible to participate in the Loan Repayment Program, an individual must—

(1)(A) be enrolled—

(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

(ii) in an approved graduate training program in a health profession; or

(B) have—

(i) a degree in a health profession; and

(ii) a license to practice a health profession in a State;

(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

(C) meet the professional standards for civil service employment in the Indian Health Service; or

(D) be employed in an Indian health program without a service obligation; and

(3) submit to the Secretary an application for a contract described in subsection (f) of this section.

#### **(c) Application and contract forms**

(1) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) of this section in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

(2) The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

(3) The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

#### **(d) Vacancies; priority**

(1) Consistent with paragraph (3), the Secretary, acting through the Service and in accordance with subsection (k) of this section, shall annually—

(A) identify the positions in each Indian health program for which there is a need or a vacancy, and

(B) rank those positions in order of priority.

(2) Consistent with the priority determined under paragraph (1), the Secretary, in determin-

ing which applications under the Loan Repayment Program to approve (and which contracts to accept), shall give priority to applications made by—

(A) Indians; and

(B) individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.

(3)(A) Subject to subparagraph (B), of the total amounts appropriated for each of the fiscal years 1993, 1994, and 1995 for loan repayment contracts under this section, the Secretary shall provide that—

(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.

#### **(e) Approval**

(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f) of this section.

(2) The Secretary shall provide written notice to an individual promptly on—

(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

(B) the Secretary's disapproving an individual's participation in such Program.

#### **(f) Contract terms**

The written contract referred to in this section between the Secretary and an individual shall contain—

(1) an agreement under which—

(A) subject to paragraph (3), the Secretary agrees—

(i) to pay loans on behalf of the individual in accordance with the provisions of this section, and

(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe or Indian organization as provided in subparagraph (B)(iii), and

(B) subject to paragraph (3), the individual agrees—

(i) to accept loan payments on behalf of the individual;

(ii) in the case of an individual described in subsection (b)(1) of this section—

(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) of this section until the individual completes the course of study or training, and

(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

(iii) to serve for a time period (hereinafter in this section referred to as the "period of obligated service") equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

(4) a statement of the damages to which the United States is entitled under subsection (I) of this section for the individual's breach of the contract; and

(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

**(g) Loan repayment purposes; maximum amount; tax liability reimbursement; schedule of payments**

(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

(A) tuition expenses;

(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

(C) reasonable living expenses as determined by the Secretary.

(2)(A) For each year of obligated service that an individual contracts to serve under subsection (f) of this section the Secretary may pay up to \$35,000 (or an amount equal to the amount specified in section 2541-1(g)(2)(A) of title 42) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

(B) Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

**(h) Effect on employment ceiling of Department of Health and Human Services**

Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department of Health and Human Services.

**(i) Recruiting programs**

The Secretary shall conduct recruiting programs for the Loan Repayment Program and other health professional programs of the Service at educational institutions training health professionals or specialists identified in subsection (a) of this section.

**(j) Prohibition of assignment to other government departments**

Section 215 of title 42 shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

**(k) Staff needs of health programs administered by Indian tribes**

The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care



services as a result of individuals having breached contracts entered into under this section.

**(I) Voluntary termination of study or dismissal from educational institution; collection of damages**

(1) An individual who has entered into a written contract with the Secretary under this section and who—

(A) is enrolled in the final year of a course of study and who—

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

(ii) voluntarily terminates such enrollment; or

(iii) is dismissed from such educational institution before completion of such course of study; or

(B) is enrolled in a graduate training program, fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii) of this section,

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

(2) If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f) of this section, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

in which—

(A) "A" is the amount the United States is entitled to recover;

(B) "Z" is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

(C) "t" is the total number of months in the individual's period of obligated service in accordance with subsection (f) of this section; and

(D) "s" is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of title 42.

(3)(A) Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

(B) If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(C) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31 shall apply to any such contract to the extent not inconsistent with this subsection.

**(m) Cancellation or waiver of obligations; bankruptcy discharge**

(1) Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

(4) Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

**(n) Annual report**

The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 1671 of this title, a report concerning the previous fiscal year which sets forth—

(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

(3) the number of contracts described in subsection (f) of this section that are entered into with respect to each health profession;

(4) the amount of loan payments made under this section, in total and by health profession;

(5) the number of scholarship grants that are provided under section 1613a of this title with respect to each health profession;

(6) the amount of scholarship grants provided under section 1613a of this title, in total and by health profession;

(7) the number of providers of health care that will be needed by Indian health programs,

by location and profession, during the three fiscal years beginning after the date the report is filed; and

(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.

(Pub. L. 94-437, title I, §108, as added Pub. L. 100-713, title I, §108, Nov. 23, 1988, 102 Stat. 4789; amended Pub. L. 102-573, title I, §§106(a)-(g)(1), (h), (i), 117(b)(3), title IX, §902(2)(C), (D), Oct. 29, 1992, 106 Stat. 4535-4537, 4544, 4591.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(2)(A)(ii)(I), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102-573, §106(a)(1), substituted “health professionals” for “physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals”.

Subsec. (b)(1)(A)(i). Pub. L. 102-573, §106(a)(2)(A)(i), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “as a full-time student in the final year of a course of study or program in an accredited institution, as determined by the Secretary, within any State; or”.

Subsec. (b)(1)(A)(ii). Pub. L. 102-573, §106(a)(2)(A)(ii), substituted “a health profession” for “medicine, osteopathy, dentistry, or other health profession”.

Subsec. (b)(1)(B). Pub. L. 102-573, §106(a)(2)(B), in cl. (i), substituted “a degree in a health profession; and” for “a degree in medicine, osteopathy, dentistry, or other health profession;”, redesignated cl. (iii) as (ii) and substituted “a health profession” for “medicine, osteopathy, dentistry, or other health profession”, and struck out former cl. (ii) which read as follows: “completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and”.

Subsec. (b)(2) to (4). Pub. L. 102-573, §106(a)(2)(C), inserted “and” at end of par. (2)(D), added par. (3), and struck out former pars. (3) and (4) which read as follows:

“(3) submit an application to participate in the Loan Repayment Program; and

“(4) sign and submit to the Secretary, at the time of submission of such application, a written contract (described in subsection (f) of this section) to accept repayment of educational loans and to serve (in accordance with this section) for the applicable period of obligated service in an Indian health program.”

Subsec. (d)(1). Pub. L. 102-573, §106(b)(1), substituted “Consistent with paragraph (3), the” for “The”.

Subsec. (d)(1)(A). Pub. L. 102-573, §902(2)(C), substituted “Indian health” for “Indian Health”.

Subsec. (d)(3). Pub. L. 102-573, §106(b)(2), added par. (3).

Subsec. (e)(1). Pub. L. 102-573, §106(c), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “An individual becomes a participant in the Loan Repayment Program only on the Secretary’s approval of the individual’s application submitted under subsection (b)(3) of this section and the Secretary’s acceptance of the contract submitted by the individual under subsection (b)(4) of this section.”

Subsec. (e)(2)(A). Pub. L. 102-573, §106(d), inserted “, including extensions resulting in an aggregate period of obligated service in excess of 4 years” before “; or”.

Subsec. (g)(1). Pub. L. 102-573, §106(e), in introductory provisions, substituted “loans received by the individual of the individual (or both), which loans were made for” for “loans received by the individual for”.

Subsec. (g)(2)(A). Pub. L. 102-573, §106(f), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Except as provided in subparagraph (B) and paragraph (3), for each year of obligated service for which an individual contracts to serve under subsection (f) of this section, the Secretary may pay up to \$25,000 on behalf of the individual for loans described in paragraph (1).”

Subsec. (g)(3). Pub. L. 102-573, §106(g)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.”

Subsec. (i). Pub. L. 102-573, §902(2)(D), substituted “health professional programs of the Service” for “Service manpower programs”.

Subsec. (k). Pub. L. 102-573, §106(h), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: “The Secretary shall ensure that the staffing needs of Indian health programs administered by any Indian tribe or tribal or Indian organization receive consideration on an equal basis with programs that are administered directly by the Service.”

Subsec. (n). Pub. L. 102-573, §106(i), amended subsec. (n) generally. Prior to amendment, subsec. (n) consisted of pars. (1) and (2) requiring submission of annual reports to Congress by the first of March and the first of July of each year.

Subsec. (o). Pub. L. 102-573, §117(b)(3), struck out subsec. (o) which read as follows: “There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the provisions of this section.”

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 106(g)(2) of Pub. L. 102-573 provided that: “The amendment made by paragraph (1) [amending this section] shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act [this section] entered into on or after the date of enactment of this Act [Oct. 29, 1992].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1613a, 1616a-1, 1616b, 1616c, 1616d, 1616j, 1616k, 1616m, 1621h, 1671 of this title.

### § 1616a-1. Scholarship and Loan Repayment Recovery Fund

#### (a) Establishment

There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the “Fund”). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b) of this section. Amounts appropriated for the Fund shall remain available until expended.

#### (b) Authorization of appropriations

For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

(A) the liability of individuals under subparagraph (A) or (B) of section 1613a(b)(5) of this title for the breach of contracts entered into under section 1613a of this title; and

(B) the liability of individuals under section 1616a(l) of this title for the breach of contracts entered into under section 1616a of this title; and

(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) of this section and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

#### (c) Use of funds

(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]—

(A) to which a scholarship recipient under section 1613a of this title or a loan repayment program participant under section 1616a of this title has been assigned to meet the obligated service requirements pursuant to<sup>1</sup> sections; and

(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 1613a of this title or section 1616a of this title.

(2) An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ, directly or by contract, health professionals to provide health care services.

#### (d) Investment of excess funds

(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(Pub. L. 94-437, title I, §108A, as added Pub. L. 102-573, title I, §110, Oct. 29, 1992, 106 Stat. 4538.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (c)(1), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

<sup>1</sup> So in original. Probably should be “to such”.

#### § 1616b. Recruitment activities

(a) The Secretary may reimburse health professionals seeking positions in the Service, including individuals considering entering into a contract under section 1616a of this title, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.

(Pub. L. 94-437, title I, §109, as added Pub. L. 100-713, title I, §108, Nov. 23, 1988, 102 Stat. 4794; amended Pub. L. 102-573, title I, §107, Oct. 29, 1992, 106 Stat. 4538.)

#### AMENDMENTS

1992—Pub. L. 102-573, §107(1), substituted “Recruitment activities” for “Travel expenses for recruitment” in section catchline.

Subsec. (b). Pub. L. 102-573, §107(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated \$100,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.”

#### § 1616c. Tribal recruitment and retention program

##### (a) Projects funded on competitive basis

The Secretary, acting through the Service, shall fund, on a competitive basis, projects to enable Indian tribes and tribal and Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 1616a(a)(2) of this title).

##### (b) Eligibility

(1) Any Indian tribe or tribal or Indian organization may submit an application for funding of a project pursuant to this section.

(2) Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be given an equal opportunity with programs that are administered directly by the Service to compete for, and receive, grants under subsection (a) of this section for such projects.

(Pub. L. 94-437, title I, §110, as added Pub. L. 100-713, title I, §108, Nov. 23, 1988, 102 Stat. 4794; amended Pub. L. 102-573, title I, §117(b)(4), Oct. 29, 1992, 106 Stat. 4544.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(2), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (c). Pub. L. 102-573 struck out subsec. (c) which authorized appropriations for fiscal years 1990 to 1992.

**§ 1616d. Advanced training and research****(a) Establishment of program**

The Secretary, acting through the Service, shall establish a program to enable health professionals to pursue advanced training or research in areas of study for which the Secretary determines a need exists. In selecting participants for a program established under this subsection, the Secretary, acting through the Service, shall give priority to applicants who are employed by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations, at the time of the submission of the applications.

**(b) Obligated service**

An individual who participates in a program under subsection (a) of this section, where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program (as defined in section 1616a(a)(2) of this title) for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the program after October 29, 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 1616a of this title in the manner provided for in such subsection.

**(c) Eligibility**

Health professionals from Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be given an equal opportunity to participate in the program under subsection (a) of this section.

(Pub. L. 94-437, title I, §111, as added Pub. L. 100-713, title I, §108, Nov. 23, 1988, 102 Stat. 4795; amended Pub. L. 102-573, title I, §108, Oct. 29, 1992, 106 Stat. 4538; Pub. L. 103-435, §16(a), Nov. 2, 1994, 108 Stat. 4573.)

**REFERENCES IN TEXT**

The Indian Self-Determination Act, referred to in subsec. (c), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**AMENDMENTS**

1994—Subsec. (a). Pub. L. 103-435, §16(a)(1), struck out “who have worked in an Indian health program (as defined in section 1616a(a)(2) of this title) for a substantial period of time” after “health professionals” and inserted at end “In selecting participants for a program established under this subsection, the Secretary, acting through the Service, shall give priority to applicants who are employed by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations, at the time of the submission of the applications.”

Subsec. (b). Pub. L. 103-435, §16(a)(2), inserted “(as defined in section 1616a(a)(2) of this title)” after “Indian health program”.

1992—Subsec. (b). Pub. L. 102-573, §108(1), amended last sentence generally. Prior to amendment, last sen-

tence read as follows: “The Secretary shall develop standards for appropriate recoupment for such remaining service.”

Subsec. (d). Pub. L. 102-573, §108(2), struck out subsec. (d) which directed Secretary to prescribe regulations to carry out this section.

**§ 1616e. Nursing program****(a) Grants**

The Secretary, acting through the Service, shall provide grants to—

- (1) public or private schools of nursing,
- (2) tribally controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2) of title 20), and
- (3) nurse midwife programs, and nurse practitioner programs, that are provided by any public or private institution,

for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

**(b) Purposes**

Grants provided under subsection (a) of this section may be used to—

- (1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or nurse practitioners,
- (2) provide scholarships to individuals enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses,
- (3) provide a program that encourages nurses, nurse midwives, and nurse practitioners to provide, or continue to provide, health care services to Indians,
- (4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and nurse practitioners, or
- (5) provide any program that is designed to achieve the purpose described in subsection (a) of this section.

**(c) Application**

Each application for a grant under subsection (a) of this section shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

**(d) Preference**

In providing grants under subsection (a) of this section, the Secretary shall extend a preference to—

- (1) programs that provide a preference to Indians,
- (2) programs that train nurse midwives or nurse practitioners,
- (3) programs that are interdisciplinary, and
- (4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 2624(a)<sup>1</sup> of this title.

**(e) Quentin N. Burdick American Indians Into Nursing Program**

The Secretary shall provide one of the grants authorized under subsection (a) of this section

<sup>1</sup> See References in Text note below.

to establish and maintain a program at the University of North Dakota to be known as the "Quentin N. Burdick American Indians Into Nursing Program". Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 1616g(b) of this title and the Quentin N. Burdick American Indians Into Psychology Program established under section 1621p(b) of this title.

**(f) Service obligation**

The active duty service obligation prescribed under section 254m of title 42 shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) of this section that is funded by a grant provided under subsection (a) of this section. Such obligation shall be met by service—

(A) in the Indian Health Service;

(B) in a program conducted under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(C) in a program assisted under subchapter IV of this chapter; or

(D) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

**(g) Authorization of appropriations**

Beginning with fiscal year 1993, of the amounts appropriated under the authority of this subchapter for each fiscal year to be used to carry out this section, not less than \$1,000,000 shall be used to provide grants under subsection (a) of this section for the training of nurse midwives, nurse anesthetists, and nurse practitioners.

(Pub. L. 94-437, title I, §112, as added Pub. L. 100-713, title I, §108, Nov. 23, 1988, 102 Stat. 4795; amended Pub. L. 102-573, title I, §§104(b), (c), 114(a), Oct. 29, 1992, 106 Stat. 4533, 4543.)

REFERENCES IN TEXT

Section 2624 of this title, referred to in subsec. (d)(4), was repealed by Pub. L. 103-382, title III, §367, Oct. 20, 1994, 108 Stat. 3976. See section 7834 of Title 20, Education.

The Indian Self-Determination Act, referred to in subsec. (f)(B), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102-573, §114(a), inserted "and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2) of title 20)" after "community colleges".

Subsecs. (e), (f). Pub. L. 102-573, §104(b), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 102-573, §104(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

"(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, \$5,000,000 for the purpose of carrying out the provisions of this section.

"(2) Of the amounts appropriated under the authority of paragraph (1) for each fiscal year, the Secretary shall use at least \$1,000,000 to provide grants under subsection (a) of this section for the training of nurse midwives."

Pub. L. 102-573, §104(b)(1), redesignated subsec. (f) as (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616e-1, 1616g, 1621p of this title.

**§ 1616e-1. Nursing school clinics**

**(a) Grants**

In addition to the authority of the Secretary under section 1616e(a)(1) of this title, the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18.

**(b) Purposes**

Grants provided under subsection (a) of this section may be used to—

(1) establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18);

(2) provide clinical training, program development, faculty enhancement, and student scholarships in a manner that would benefit such clinics; and

(3) carry out any other activities determined appropriate by the Secretary.

**(c) Amount and conditions**

The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

**(d) Design**

The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.

**(e) Regulations**

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

**(f) Authorization to use amounts**

Out of amounts appropriated to carry out this subchapter for each of the fiscal years 1993 through 2000 not more than \$5,000,000 may be used to carry out this section.

(Pub. L. 94-437, title I, §112A, as added Pub. L. 102-573, title I, §104(f), Oct. 29, 1992, 106 Stat. 4534.)

**§ 1616f. Tribal culture and history**

**(a) Program established**

The Secretary, acting through the Service, shall establish a program under which appropriate employees of the Service who serve particular Indian tribes shall receive educational

instruction in the history and culture of such tribes and in the history of the Service.

**(b) Tribally-controlled community colleges**

To the extent feasible, the program established under subsection (a) of this section shall—

- (1) be carried out through tribally-controlled community colleges (within the meaning of section 1801(4) of this title) and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2) of title 20),
- (2) be developed in consultation with the affected tribal government, and
- (3) include instruction in Native American studies.

(Pub. L. 94-437, title I, §113, as added Pub. L. 100-713, title I, §109, Nov. 23, 1988, 102 Stat. 4796; amended Pub. L. 102-573, title I, §§114(b), 117(b)(5), Oct. 29, 1992, 106 Stat. 4543, 4544.)

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102-573, §114(b), inserted before comma at end “and tribally controlled postsecondary vocational institutions (as defined in section 2397h(2) of title 20)”.

Subsec. (c). Pub. L. 102-573, §117(b)(5), struck out subsec. (c) which authorized appropriations for fiscal years 1990 to 1992.

**§ 1616g. INMED program**

**(a) Grants**

The Secretary is authorized to provide grants to at least 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the “Indians into Medicine Program” (hereinafter in this section referred to as “INMED”) as a means of encouraging Indians to enter the health professions.

**(b) University of North Dakota**

The Secretary shall provide one of the grants authorized under subsection (a) of this section to maintain the INMED program at the University of North Dakota, to be known as the “Quentin N. Burdick Indian Health Programs”, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 1621p(b) of this title and the Quentin N. Burdick American Indians Into Nursing Program established under section 1616e(e) of this title.

**(c) Regulations; contents of recruitment program**

(1) The Secretary shall develop regulations for the competitive awarding of the grants provided under this section.

(2) Applicants for grants provided under this section shall agree to provide a program which—

- (A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program,
- (B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program,

(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions,

(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university, and

(E) to the maximum extent feasible, employs qualified Indians in the program.

**(d) Report to Congress**

By no later than the date that is 3 years after November 23, 1988, the Secretary shall submit a report to the Congress on the program established under this section including recommendations for expansion or changes to the program.

(Pub. L. 94-437, title I, §114, as added Pub. L. 100-713, title I, §109, Nov. 23, 1988, 102 Stat. 4796; amended Pub. L. 102-573, title I, §§109, 117(b)(6), Oct. 29, 1992, 106 Stat. 4538, 4544.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-573, §109, inserted “to be known as the ‘Quentin N. Burdick Indian Health Programs’,” after “North Dakota,” and “Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 1621p(b) of this title and the Quentin N. Burdick American Indians Into Nursing Program established under section 1616e(e) of this title.” at end.

Subsec. (e). Pub. L. 102-573, §117(b)(6), struck out subsec. (e) which authorized appropriations for fiscal years 1990 to 1992.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616e, 1621p of this title.

**§ 1616h. Health training programs of community colleges**

**(a) Grants**

(1) The Secretary, acting through the Service, shall award grants to community colleges for the purpose of assisting the community college in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation or in a tribal clinic.

(2) The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed \$100,000.

**(b) Eligibility**

(1) The Secretary, acting through the Service, shall award grants to community colleges that have established a program described in subsection (a)(1) of this section for the purpose of maintaining the program and recruiting students for the program.

(2) Grants may only be made under this section to a community college which—

- (A) is accredited,
- (B) has access to a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals,
- (C) has entered into an agreement with an accredited college or university medical school, the terms of which—

- (i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals, and
- (ii) stipulate certifications necessary to approve internship and field placement opportunities at service unit facilities of the Service or at tribal health facilities,

(D) has a qualified staff which has the appropriate certifications, and

(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1) of this section.

**(c) Agreements and technical assistance**

The Secretary shall encourage community colleges described in subsection (b)(2) of this section to establish and maintain programs described in subsection (a)(1) of this section by—

- (1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and
- (2) providing technical assistance and support to such colleges.

**(d) Advanced training**

Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

- (1) has already received a degree or diploma in such health profession, and
- (2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C) of this section.

**(e) Definitions**

For purposes of this section—

- (1) The term “community college” means—
  - (A) a tribally controlled community college, or
  - (B) a junior or community college.
- (2) The term “tribally controlled community college” has the meaning given to such term by section 1801(4) of this title.
- (3) The term “junior or community college” has the meaning given to such term by section 1058(e) of title 20.

(Pub. L. 94-437, title I, §115, as added Pub. L. 100-713, title I, §109, Nov. 23, 1988, 102 Stat. 4797; amended Pub. L. 102-573, title I, §117(b)(7), Oct. 29, 1992, 106 Stat. 4544.)

AMENDMENTS

1992—Subsec. (f). Pub. L. 102-573 struck out subsec. (f) which authorized appropriations for fiscal years 1990 to 1992.

**§ 1616i. Additional incentives for health professionals**

**(a) Incentive special pay**

The Secretary may provide the incentive special pay authorized under section 302(b) of title

37 to civilian medical officers of the Indian Health Service who are assigned to, and serving in, positions included in the list established under subsection (b)(1) of this section for which recruitment or retention of personnel is difficult.

**(b) List of positions; bonus pay**

(1) The Secretary shall establish and update on an annual basis a list of positions of health care professionals employed by, or assigned to, the Service for which recruitment or retention is difficult.

(2)(A) The Secretary may pay a bonus to any commissioned officer or civil service employee, other than a commissioned medical officer, dental officer, optometrist, and veterinarian, who is employed in or assigned to, and serving in, a position in the Service included in the list established by the Secretary under paragraph (1).

(B) The total amount of bonus payments made by the Secretary under this paragraph to any employee during any 1-year period shall not exceed \$2,000.

**(c) Work schedules**

The Secretary may establish programs to allow the use of flexible work schedules, and compressed work schedules, in accordance with the provisions of subchapter II of chapter 61 of title 5, for health professionals employed by, or assigned to, the Service.

(Pub. L. 94-437, title I, §116, as added Pub. L. 100-713, title I, §109, Nov. 23, 1988, 102 Stat. 4798; amended Pub. L. 102-573, title I, §117(b)(8), title IX, §901(1), Oct. 29, 1992, 106 Stat. 4544, 4590.)

AMENDMENTS

1992—Subsec. (d). Pub. L. 102-573, §901(1), struck out subsec. (d) which required a report to Congress by the Secretary no later than 6 months after Nov. 23, 1988, relating to overtime pay for individuals employed by the Service.

Subsec. (e). Pub. L. 102-573, §117(b)(8), struck out subsec. (e) which authorized appropriations for fiscal years 1990 to 1992.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616j, 1621h of this title.

**§ 1616j. Retention bonus**

**(a) Eligibility**

The Secretary may pay a retention bonus to any physician or nurse employed by, or assigned to, and serving in, the Service either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

- (1) is assigned to, and serving in, a position included in the list established under section 1616i(b)(1) of this title for which recruitment or retention of personnel is difficult,
- (2) the Secretary determines is needed by the Service,

- (3) has—
  - (A) completed 3 years of employment with the Service, or
  - (B) completed any service obligations incurred as a requirement of—
    - (i) any Federal scholarship program, or
    - (ii) any Federal education loan repayment program, and

(4) enters into an agreement with the Service for continued employment for a period of not less than 1 year.

**(b) Minimum award percentage to nurses**

Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) of this section shall be awarded to nurses.

**(c) Rates; maximum rate**

The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4) of this section, but in no event shall the annual rate be more than \$25,000 per annum.

**(d) Time of payment**

The retention bonus for the entire period covered by the agreement described in subsection (a)(4) of this section shall be paid at the beginning of the agreed upon term of service.

**(e) Refund; interest**

Any physician or nurse failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 1616a(l)(2)(B) of this title.

**(f) Physicians and nurses employed under Indian Self-Determination Act**

The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] if such physician or nurse is serving in a position which the Secretary determines is—

(1) a position for which recruitment or retention is difficult; and

(2) necessary for providing health care services to Indians.

(Pub. L. 94-437, title I, §117, as added Pub. L. 100-713, title I, §109, Nov. 23, 1988, 102 Stat. 4799; amended Pub. L. 102-573, title I, §104(d), Oct. 29, 1992, 106 Stat. 4533.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (f), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsecs. (b) to (f). Pub. L. 102-573 added subsec. (b), redesignated former subsecs. (b) to (e) as (c) to (f), respectively, and amended subsec. (f) generally, substituting provisions relating to physicians and nurses employed under the Indian Self-Determination Act for provisions which authorized appropriations for fiscal years 1990 to 1992.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621h of this title.

**§ 1616k. Nursing residency program**

**(a) Establishment**

The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 1616a(a)(2)(A) of this title), and have done so for a period of not less than one year, to pursue advanced training.

**(b) Program components**

Such program shall include a combination of education and work study in an Indian health program (as defined in section 1616a(a)(2)(A) of this title) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse) or a Master's degree.

**(c) Service obligation of program participant**

An individual who participates in a program under subsection (a) of this section, where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least three times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 1616a of this title in the manner provided for in such subsection.

(Pub. L. 94-437, title I, §118, as added Pub. L. 102-573, title I, §104(e), Oct. 29, 1992, 106 Stat. 4534; amended Pub. L. 103-435, §16(b), Nov. 2, 1994, 108 Stat. 4573.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-435 inserted before period at end “or a Master's degree”.

**§ 1616l. Community Health Aide Program for Alaska**

**(a) Maintenance of Program**

Under the authority of section 13 of this title, the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

(1) provides for the training of Alaska Natives as health aides or community health practitioners;

(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

**(b) Training; curriculum; Certification Board**

The Secretary, acting through the Community Health Aide Program of the Service, shall—

(1) using trainers accredited by the Program, provide a high standard of training to commu-



nity health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

(2) in order to provide such training, develop a curriculum that—

(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

(C) promotes the achievement of the health status objectives specified in section 1602(b) of this title;

(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

(Pub. L. 94-437, title I, §119, as added Pub. L. 102-573, title I, §111, Oct. 29, 1992, 106 Stat. 4539.)

#### **§ 1616m. Matching grants to tribes for scholarship programs**

##### **(a) In general**

(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

(2) Amounts available for grants under paragraph (1) for any fiscal year shall not exceed 5 percent of amounts available for such fiscal year for Indian Health Scholarships under section 1613a of this title.

(3) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

##### **(b) Compliance with requirements**

(1) An Indian tribe or tribal organization receiving a grant under subsection (a) of this section shall agree to provide scholarships to Indians pursuing education in the health professions

in accordance with the requirements of this section.

(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

(A) 80 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) of this section to the Indian tribe or tribal organization; and

(B) 20 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

(4) Non-Federal contributions required by subparagraph (B) of paragraph (2) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

##### **(c) Course of study in health professions**

An Indian tribe or tribal organization shall provide scholarships under subsection (b) of this section only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in section 1613a(a) of this title.

##### **(d) Contract requirements**

In providing scholarships under subsection (b) of this section, the Secretary and the Indian tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

(1) obligate such recipient to provide service in an Indian health program (as defined in section 1616a(a)(2)(A) of this title), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

(2) provide that the amount of such scholarship—

(A) may be expended only for—

(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 2547(g)(1)(B) of title 42, such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the educational institution in accordance with regulations issued by the Secretary); and

(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant.

**(e) Breach of contract**

(1) An individual who has entered into a written contract with the Secretary and an Indian tribe or tribal organization under subsection (d) of this section and who—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(B) is dismissed from such educational institution for disciplinary reasons,

(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the Federal share of the amount which has been paid to him, or on his behalf, under the contract.

(2) If for any reason not specified in paragraph (1), an individual breaches his written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (i) of section 1616a of this title in the manner provided for in such subsection.

(3) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

**(f) Nondiscriminatory practice**

The recipient of a scholarship under subsection (b) of this section shall agree, in providing health care pursuant to the requirements of subsection (d)(1) of this section—

(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or pursuant to the program established in title XIX of such Act [42 U.S.C. 1396 et seq.]; and

(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act [42 U.S.C. 1395u(b)(3)(B)(ii)] for all services for which payment may be made under part B of

title XVIII of such Act [42 U.S.C. 1395j et seq.], and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act [42 U.S.C. 1396 et seq.] to provide service to individuals entitled to medical assistance under the plan.

**(g) Payments for subsequent fiscal years**

The Secretary may not make any payments under subsection (a) of this section to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.

(Pub. L. 94-437, title I, § 120, as added Pub. L. 102-573, title I, § 112, Oct. 29, 1992, 106 Stat. 4540.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare, respectively. Part B of title XVIII of the Act is classified generally to part B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

**§ 1616n. Tribal health program administration**

The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.

(Pub. L. 94-437, title I, § 121, as added Pub. L. 102-573, title I, § 113, Oct. 29, 1992, 106 Stat. 4542.)

**§ 1616o. University of South Dakota pilot program**

**(a) Establishment**

The Secretary may make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as "USDSM") to establish a pilot program on an Indian reservation at one or more service units in South Dakota to address the chronic manpower shortage in the Aberdeen Area of the Service.

**(b) Purposes**

The purposes of the program established pursuant to a grant provided under subsection (a) of this section are—

(1) to provide direct clinical and practical experience at a service unit to medical students and residents from USDSM and other medical schools;

(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

(3) to provide academic and scholarly opportunities for physicians, physician assistants, nurse practitioners, nurses, and other allied health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

**(c) Composition; designation**

The pilot program established pursuant to a grant provided under subsection (a) of this section shall—

(1) incorporate a program advisory board composed of representatives from the tribes and communities in the area which will be served by the program; and

(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.

**(d) Coordination with other schools**

The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) of this section with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.

**(e) Development of additional professional opportunities**

The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.

(Pub. L. 94-437, title I, §122, as added Pub. L. 102-573, title I, §116, Oct. 29, 1992, 106 Stat. 4543.)

**§ 1616p. Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94-437, title I, §123, as added Pub. L. 102-573, title I, §117(a), Oct. 29, 1992, 106 Stat. 4544.)

**SUBCHAPTER II—HEALTH SERVICES**

**§ 1621. Indian Health Care Improvement Fund**

**(a) Approved expenditures**

The Secretary is authorized to expend funds which are appropriated under the authority of this section, through the Service, for the purposes of—

(1) eliminating the deficiencies in health status and resources of all Indian tribes,

(2) eliminating backlogs in the provision of health care services to Indians,

(3) meeting the health needs of Indians in an efficient and equitable manner, and

(4) augmenting the ability of the Service to meet the following health service responsibilities, either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.], with respect to those Indian tribes with the highest levels of health status and resource deficiencies:

(A) clinical care (direct and indirect) including clinical eye and vision care;

(B) preventive health, including screening mammography in accordance with section 1621k of this title;

(C) dental care (direct and indirect);

(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health

services, therapeutic and residential treatment centers, and training of traditional Indian practitioners;

(E) emergency medical services;

(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

(G) accident prevention programs;

(H) home health care;

(I) community health representatives; and

(J) maintenance and repair.

**(b) Effect on other appropriations; allocation to service units**

(1) Any funds appropriated under the authority of this section shall not be used to offset or limit any appropriations made to the Service under section 13 of this title, or any other provision of law.

(2)(A) Funds appropriated under the authority of this section may be allocated on a service unit basis. The funds allocated to each service unit under this subparagraph shall be used by the service unit to reduce the health status and resource deficiency of each tribe served by such service unit.

(B) The apportionment of funds allocated to a service unit under subparagraph (A) among the health service responsibilities described in subsection (a)(4) of this section shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes.

**(c) Health resources deficiency levels**

For purposes of this section—

(1) The term “health status and resource deficiency” means the extent to which—

(A) the health status objectives set forth in section 1602(b) of this title are not being achieved; and

(B) the Indian tribe does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

(2) The health resources available to an Indian tribe include health resources provided by the Service as well as health resources used by the Indian tribe, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

(3) The Secretary shall establish procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such tribe.

**(d) Programs administered by Indian tribe**

(1) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

(2) If any funds allocated to a tribe or service unit under the authority of this section are used for a contract entered into under the Indian Self-Determination Act, a reasonable portion of

such funds may be used for health planning, training, technical assistance, and other administrative support functions.

**(e) Report to Congress**

By no later than the date that is 3 years after October 29, 1992, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

(2) the extent of the health status and resource deficiency of each Indian tribe served by the Service;

(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and

(4) an estimate of—

(A) the amount of health service funds appropriated under the authority of this chapter, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

(B) the number of Indians eligible for health services in each service unit or Indian tribe; and

(C) the number of Indians using the Service resources made available to each service unit or Indian tribe.

**(f) Appropriated funds included in base budget of Service**

Funds appropriated under authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

**(g) Continuation of Service responsibilities for backlogs and parity**

Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve parity among Indian tribes.

**(h) Authorization of appropriations**

Any funds appropriated under the authority of this section shall be designated as the “Indian Health Care Improvement Fund”.

(Pub. L. 94-437, title II, § 201, Sept. 30, 1976, 90 Stat. 1404; Pub. L. 96-537, § 4, Dec. 17, 1980, 94 Stat. 3174; Pub. L. 100-713, title II, § 201(a), Nov. 23, 1988, 102 Stat. 4800; Pub. L. 102-573, title II, § 201(a), (c), 207(b), 217(b)(1), Oct. 29, 1992, 106 Stat. 4544, 4546, 4551, 4559.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (a)(4) and (d), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of

chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102-573, § 201(c), amended section catchline generally.

Subsec. (a). Pub. L. 102-573, § 201(a)(1)(A), substituted “this section” for “subsection (h) of this section” in introductory provisions.

Subsec. (a)(1). Pub. L. 102-573, § 201(a)(1)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “raising the health status of Indians to zero deficiency,”.

Subsec. (a)(4). Pub. L. 102-573, § 201(a)(1)(C), in introductory provisions inserted “, either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act,” after “responsibilities” and substituted “status and resource deficiencies” for “resources deficiency”.

Subsec. (a)(4)(B). Pub. L. 102-573, § 207(b), substituted “preventive health, including screening mammography in accordance with section 1621k of this title” for “preventive health”.

Subsec. (b)(1). Pub. L. 102-573, § 201(a)(2)(A), substituted “this section” for “subsection (h) of this section”.

Subsec. (b)(2). Pub. L. 102-573, § 201(a)(2)(B), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “Funds which are appropriated under the authority of subsection (h) of this section may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated under the authority of subsection (h) of this section to raise all Indian tribes to health resources deficiency level II.”

Subsec. (b)(2)(A). Pub. L. 102-573, § 201(a)(2)(C), in first sentence, substituted “this section” for “subsection (h) of this section” and struck out “but such allocation shall be made in a manner which ensures that the requirement of paragraph (2) is met” after “service unit basis” and, in second sentence, struck out “(in accordance with paragraph (2))” after “the service unit” and substituted “reduce the health status and resource deficiency” for “raise the deficiency level”.

Subsec. (b)(2)(B). Pub. L. 102-573, § 201(a)(2)(D), inserted “, and with the active participation of,” after “in consultation with”.

Subsec. (b)(3). Pub. L. 102-573, § 201(a)(2)(B), redesignated par. (3) as (2).

Subsec. (c)(1). Pub. L. 102-573, § 201(a)(3)(B), amended par. (1) generally, substituting provisions defining “health status and resource deficiency” for former provisions defining “health resources deficiency”.

Pub. L. 102-573, § 201(a)(3)(A), redesignated par. (2) as (1) and struck out former par. (1) which specified the health resource deficiency levels of an Indian tribe.

Subsec. (c)(2). Pub. L. 102-573, § 201(a)(3)(A), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (c)(3). Pub. L. 102-573, § 201(a)(3)(A), (C), redesignated par. (4) as (3) and substituted “The” for “Under regulations, the” and “extent of the health status and resource deficiency” for “health resources deficiency level”. Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 102-573, § 201(a)(3)(A), redesignated par. (4) as (3).

Subsec. (d)(1). Pub. L. 102-573, § 201(a)(4), substituted “this section” for “subsection (h) of this section”.

Subsec. (e). Pub. L. 102-573, § 201(a)(5)(A), in introductory provisions, substituted “3 years after October 29, 1992, the Secretary shall submit to the Congress the current health status and resource deficiency report” for “60 days after November 23, 1988, the Secretary shall submit to the Congress the current health services priority system report”.

Subsec. (e)(1). Pub. L. 102-573, § 201(a)(5)(B), substituted “health status and resource deficiencies” for “health resources deficiencies”.

Subsec. (e)(2). Pub. L. 102-573, § 201(a)(5)(C), substituted “the extent of the health status and resource

deficiency of” for “the level of health resources deficiency for”.

Subsec. (e)(3). Pub. L. 102-573, §201(a)(5)(D), substituted “eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and” for “raise all Indian tribes served by the Service below health resources deficiency level II to health resources deficiency level II;”.

Subsec. (e)(4) to (6). Pub. L. 102-573, §201(a)(5)(E), redesignated par. (6) as (4) and struck out former pars. (4) and (5) which read as follows:

“(4) the amount of funds necessary to raise all tribes served by the Service below health resources deficiency level I to health resources deficiency level I;

“(5) the amount of funds necessary to raise all tribes served by the Service to zero health resources deficiency; and”.

Subsec. (f). Pub. L. 102-573, §201(a)(6), redesignated par. (2) as entire subsec. and struck out former par. (1) which read as follows: “The President shall include with the budget submitted to the Congress under section 1105 of title 31 for each fiscal year a separate statement which specifies the amount of funds requested to carry out the provisions of this section for such fiscal year.”

Subsec. (h). Pub. L. 102-573, §217(b)(1), substituted “this section” for “this subsection” and struck out former first sentence which authorized appropriations for fiscal years 1990 to 1992.

1988—Pub. L. 100-713 amended section generally, substituting subssecs. (a) to (h) relating to improvement of Indian health status for former subssecs. (a) to (e) relating to direct patient care program.

1980—Subsec. (c)(1). Pub. L. 96-537, §4(a)(1), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(2). Pub. L. 96-537, §4(a)(2), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(3). Pub. L. 96-537, §4(a)(3), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(A). Pub. L. 96-537, §4(b)(1), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(B). Pub. L. 96-537, §4(b)(2), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(C). Pub. L. 96-537, §4(b)(3), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(D). Pub. L. 96-537, §4(b)(4), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(4)(E). Pub. L. 96-537, §4(b)(5), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984.

Subsec. (c)(5). Pub. L. 96-537, §4(c)(1), inserted provisions authorizing appropriation of specific amounts for

fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984.

Subsec. (c)(6). Pub. L. 96-537, §4(c)(2), inserted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, and further authorizing additional positions as may be necessary for each such fiscal year.

Subsec. (c)(7). Pub. L. 96-537, §4(c)(3), struck out par. (7) which authorized appropriation for the items referred to in subssecs. (c)(1) to (c)(6) of such sums as may be specifically authorized by an act enacted after Sept. 30, 1976, for fiscal years 1981, 1982, 1983, and 1984, and which further authorized positions for items referred to in subssecs. (c)(1) to (c)(6) other than subssecs. (c)(4)(E) and (c)(5), as may be specified in an act enacted after Sept. 30, 1976.

#### EFFECTIVE DATE OF 1992 AMENDMENTS

Section 201(b) of Pub. L. 102-573 provided that: “Except with respect to the amendments made by subsection (a)(5) [amending this section], the amendments made by subsection (a) [amending this section] shall take effect three years after the date of the enactment of this Act [Oct. 29, 1992]. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1660a, 1671 of this title.

### § 1621a. Catastrophic Health Emergency Fund

#### (a) Establishment; administration; purpose

(1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the “Fund”) consisting of—

(A) the amounts deposited under subsection (d) of this section, and

(B) the amounts appropriated to the Fund under this section.

(2) The Fund shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

(3) The Fund shall not be allocated, apportioned, or delegated on a service unit, area office, or any other basis.

(4) No part of the Fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

#### (b) Regulations; procedures for payment

The Secretary shall, through the promulgation of regulations consistent with the provisions of this section—

(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the Fund;

(2) provide that a service unit shall not be eligible for reimbursement for the cost of treatment from the Fund until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

(A) for 1993, not less than \$15,000 or not more than \$25,000; and

(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

(A) service units or facilities of the Service, or

(B) whenever otherwise authorized by the Service, non-Service facilities or providers,

in rendering treatment that exceeds such threshold cost;

(4) establish a procedure for payment from the Fund in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

(5) establish a procedure that will ensure that no payment shall be made from the Fund to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

#### (c) Effect on other appropriations

Amounts appropriated to the Fund under this section shall not be used to offset or limit appropriations made to the Service under authority of section 13 of this title or any other law.

#### (d) Reimbursements to Fund

There shall be deposited into the Fund all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the Fund.

(Pub. L. 94-437, title II, § 202, as added Pub. L. 100-713, title II, § 202, Nov. 23, 1988, 102 Stat. 4803; amended Pub. L. 102-573, title II, §§ 202(a), 217(b)(2), Oct. 29, 1992, 106 Stat. 4546, 4559.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(4), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (a)(1)(B). Pub. L. 102-573, § 202(a)(1), substituted “to the Fund under this section” for “under subsection (e) of this section”.

Subsec. (b)(2). Pub. L. 102-573, § 202(a)(2), substituted “shall establish at—” and subpars. (A) and (B) for “shall establish at not less than \$10,000 or not more than \$20,000”.

Subsec. (c). Pub. L. 102-573, § 202(a)(3), substituted “Amounts appropriated to the Fund under this section” for “Funds appropriated under subsection (e) of this section”.

Subsec. (e). Pub. L. 102-573, § 217(b)(2), struck out subsec. (e) which authorized appropriations for fiscal years 1989 to 1992.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 202(b) of Pub. L. 102-573 provided that: “The amendment made by subsection (a)(2) [amending this section] shall take effect January 1, 1993.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621f, 1621j of this title.

### § 1621b. Health promotion and disease prevention services

#### (a) Authorization

The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objectives set forth in section 1602(b) of this title.

#### (b) Evaluation statement for Presidential budget

The Secretary shall submit to the President for inclusion in each statement which is required to be submitted to the Congress under section 1671 of this title an evaluation of—

(1) the health promotion and disease prevention needs of Indians,

(2) the health promotion and disease prevention activities which would best meet such needs,

(3) the internal capacity of the Service to meet such needs, and

(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

(Pub. L. 94-437, title II, § 203, as added Pub. L. 100-713, title II, § 203(c), Nov. 23, 1988, 102 Stat. 4805; amended Pub. L. 102-573, title II, § 203, Oct. 29, 1992, 106 Stat. 4546.)

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, § 203(1), inserted before period at end “so as to achieve the health status objectives set forth in section 1602(b) of this title”.

Subsec. (b). Pub. L. 102-573, § 203(2), in introductory provisions, substituted “section 1671” for “section 1621(f)”.

Subsec. (c). Pub. L. 102-573, § 203(3), struck out subsec. (c) which directed establishment of between 1 and 4 health-related demonstration projects to terminate 30 months after Nov. 23, 1988.

#### CONGRESSIONAL FINDINGS ON HEALTH PROMOTION AND DISEASE PREVENTION

Section 203(a) of Pub. L. 100-713 provided that: “The Congress finds that health promotion and disease prevention activities will—

“(1) improve the health and well being of Indians, and

“(2) reduce the expenses for medical care of Indians.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

### § 1621c. Diabetes prevention, treatment, and control

#### (a) Incidence and complications

The Secretary, in consultation with the tribes, shall determine—

(1) by tribe and by Service unit of the Service, the incidence of, and the types of complications resulting from, diabetes among Indians; and

(2) based on paragraph (1), the measures (including patient education) each Service unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among tribes within that Service unit.

**(b) Screening**

The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

**(c) Model diabetes projects**

(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on October 29, 1992, and located—

(A) at the Claremore Indian Hospital in Oklahoma;

(B) at the Fort Totten Health Center in North Dakota;

(C) at the Sacaton Indian Hospital in Arizona;

(D) at the Winnebago Indian Hospital in Nebraska;

(E) at the Albuquerque Indian Hospital in New Mexico;

(F) at the Perry, Princeton, and Old Town Health Centers in Maine;

(G) at the Bellingham Health Center in Washington;

(H) at the Fort Berthold Reservation;

(I) at the Navajo Reservation;

(J) at the Papago Reservation;

(K) at the Zuni Reservation; or

(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

(2) The Secretary may establish new model diabetes projects under this section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).

**(d) Control officer; registry of patients**

The Secretary shall—

(1) employ in each area office of the Service at least one diabetes control officer who shall coordinate and manage on a full-time basis activities within that area office for the prevention, treatment, and control of diabetes;

(2) establish in each area office of the Service a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area;

(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to all other area offices; and

(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.

**(e) Authorization of appropriations**

Funds appropriated under this section in any fiscal year shall be in addition to base resources appropriated to the Service for that year.

(Pub. L. 94-437, title II, §204, as added Pub. L. 100-713, title II, §203(c), Nov. 23, 1988, 102 Stat. 4806; amended Pub. L. 102-573, title II, §§204, 217(b)(3), title IX, §901(2), Oct. 29, 1992, 106 Stat. 4546, 4559, 4590.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, §901(2), redesignated par. (1) as entire subsec., redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, substituted “paragraph (1)” for “subparagraph (A)” in par. (2), and struck out former par. (2) which read as follows: “Within 18 months after November 23, 1988, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made and measures taken under paragraph (1) and making recommendations for additional funding to prevent, treat, and control diabetes among Indians.”

Subsec. (c). Pub. L. 102-573, §204(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(1) The Secretary shall continue to maintain during fiscal years 1988 through 1991 each of the following model diabetes projects which are in existence on November 23, 1988:

“(A) Claremore Indian Hospital in Oklahoma;

“(B) Fort Totten Health Center in North Dakota;

“(C) Sacaton Indian Hospital in Arizona;

“(D) Winnebago Indian Hospital in Nebraska;

“(E) Albuquerque Indian Hospital in New Mexico;

“(F) Perry, Princeton, and Old Town Health Centers in Maine; and

“(G) Bellingham Health Center in Washington.

“(2) The Secretary shall establish in fiscal year 1989, and maintain during fiscal years 1989 through 1991, a model diabetes project in each of the following locations:

“(A) Fort Berthold Reservation;

“(B) the Navajo Reservation;

“(C) the Papago Reservation;

“(D) the Zuni Reservation; and

“(E) the States of Alaska, California, Minnesota, Montana, Oregon, and Utah.”

Subsec. (d)(4). Pub. L. 102-573, §204(2), added par. (4).

Subsec. (e). Pub. L. 102-573, §217(b)(3), substituted “this section” for “subsection (c) of this section” and struck out at beginning “There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.”

**§ 1621d. Hospice care feasibility study**

**(a) Duty of Secretary**

The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

(2) to determine the most efficient and effective means of furnishing such care.

**(b) Functions of study**

Such study shall—

(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

(4) identify and evaluate various means for providing hospice care, including—

(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

(B) the provision of such care by a community-based hospice program under contract to the Service; and

(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

**(c) Report to Congress**

Not later than the date which is 12 months after October 29, 1992, the Secretary shall transmit to the Congress a report containing—

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

**(d) Definitions**

For the purposes of this section—

(1) the term “terminally ill” means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and

(2) the term “hospice program” means any program which satisfies the requirements of section 1395x(dd)(2) of title 42; and

(3) the term “hospice care” means the items and services specified in subparagraphs (A) through (H) of section 1395x(dd)(1) of title 42.

(Pub. L. 94-437, title II, §205, as added Pub. L. 102-573, title II, §206(a), Oct. 29, 1992, 106 Stat. 4548.)

**PRIOR PROVISIONS**

A prior section 1621d, Pub. L. 94-437, title II, §205, as added Pub. L. 100-713, title II, §203(c), Nov. 23, 1988, 102 Stat. 4807, related to Native Hawaiian health promotion and disease prevention, prior to repeal by Pub. L. 100-579, §14, formerly §10, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, §2310, Nov. 18, 1988, 102 Stat. 4229; renumbered §14, Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948. See section 11701 et seq. of Title 42, The Public Health and Welfare.

**§ 1621e. Reimbursement from certain third parties of costs of health services****(a) Right of recovery**

Except as provided in subsection (f) of this section, the United States, an Indian tribe, or a tribal organization shall have the right to recover the reasonable expenses incurred by the Secretary, an Indian tribe, or a tribal organization in providing health services, through the

Service, an Indian tribe, or a tribal organization, to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such expenses if—

(1) such services had been provided by a nongovernmental provider, and

(2) such individual had been required to pay such expenses and did pay such expenses.

**(b) Recovery against State with workers' compensation laws or no-fault automobile accident insurance program**

Subsection (a) of this section shall provide a right of recovery against any State only if the injury, illness, or disability for which health services were provided is covered under—

(1) workers' compensation laws, or

(2) a no-fault automobile accident insurance plan or program.

**(c) Prohibition of State law or contract provision impeding right of recovery**

No law of any State, or of any political subdivision of a State, and no provision of any contract entered into or renewed after November 23, 1988, shall prevent or hinder the right of recovery of the United States, an Indian tribe, or a tribal organization under subsection (a) of this section.

**(d) Right to damages**

No action taken by the United States, an Indian tribe, or a tribal organization to enforce the right of recovery provided under subsection (a) of this section shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

**(e) Intervention or separate civil action**

The United States, an Indian tribe, or a tribal organization may enforce the right of recovery provided under subsection (a) of this section by—

(1) intervening or joining in any civil action or proceeding brought—

(A) by the individual for whom health services were provided by the Secretary, an Indian tribe, or a tribal organization, or

(B) by any representative or heirs of such individual, or

(2) instituting a separate civil action, after providing to such individual, or to the representative or heirs of such individual, notice of the intention of the United States, an Indian tribe, or a tribal organization to institute a separate civil action.

**(f) Right of recovery for services when self-insurance plan provides coverage**

The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.

(Pub. L. 94-437, title II, §206, as added Pub. L. 100-713, title II, §204, Nov. 23, 1988, 102 Stat. 4811; amended Pub. L. 102-573, title II, §209, Oct. 29, 1992, 106 Stat. 4551.)



## AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, §209(b)(1), substituted “Except as provided in subsection (f) of this section, the” for “The”.

Pub. L. 102-573, §209(a)(1)–(3), inserted “, an Indian tribe, or a tribal organization” after “United States”, after “Service”, and after “Secretary”.

Subsec. (b). Pub. L. 102-573, §209(a)(4), struck out “, or any political subdivision of a State,” after “against any State”.

Subsecs. (c), (d). Pub. L. 102-573, §209(a)(1), inserted “, an Indian tribe, or a tribal organization” after “United States”.

Subsec. (e). Pub. L. 102-573, §209(a)(1), (3), inserted “, an Indian tribe, or a tribal organization” after “United States” in two places and after “Secretary”.

Subsec. (f). Pub. L. 102-573, §209(b)(2), added subsec. (f).

**§ 1621f. Crediting of reimbursements**

(a) Except as provided in section 1621a(d) of this title, subchapter III-A of this chapter, and section 1680c of this title, all reimbursements received or recovered, under authority of this chapter, Public Law 87-693 (42 U.S.C. 2651, et seq.), or any other provision of law, by reason of the provision of health services by the Service or by a tribe or tribal organization under a contract pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

(b) The Service may not offset or limit the amount of funds obligated to any service unit or any entity under contract with the Service because of the receipt of reimbursements under subsection (a) of this section.

(Pub. L. 94-437, title II, §207, as added Pub. L. 100-713, title II, §204, Nov. 23, 1988, 102 Stat. 4812; amended Pub. L. 102-573, title VII, §701(c)(1), Oct. 29, 1992, 106 Stat. 4572.)

## REFERENCES IN TEXT

Public Law 87-693, referred to in subsec. (a), is Pub. L. 87-693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§2651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

## AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573 made technical amendment to reference to section 1680c of this title to reflect renumbering of corresponding section of original act.

**§ 1621g. Health services research**

Of the amounts appropriated for the Service in any fiscal year, other than amounts made available for the Indian Health Care Improvement Fund, not less than \$200,000 shall be available only for research to further the performance of the health service responsibilities of the Service. Indian tribes and tribal organizations con-

tracting with the Service under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be given an equal opportunity to compete for, and receive, research funds under this section.

(Pub. L. 94-437, title II, §208, as added Pub. L. 100-713, title II, §204, Nov. 23, 1988, 102 Stat. 4812.)

## REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**§ 1621h. Mental health prevention and treatment services****(a) National plan for Indian Mental Health Services**

(1) Not later than 120 days after November 28, 1990, the Secretary, acting through the Service, shall develop and publish in the Federal Register a final national plan for Indian Mental Health Services. The plan shall include—

(A) an assessment of the scope of the problem of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians, including—

(i) the number of Indians served by the Service who are directly or indirectly affected by such illness or behavior, and

(ii) an estimate of the financial and human cost attributable to such illness or behavior;

(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior; and

(C) an estimate of the additional funding needed by the Service to meet its responsibilities under the plan.

(2) The Secretary shall submit a copy of the national plan to the Congress.

**(b) Memorandum of agreement**

Not later than 180 days after November 28, 1990, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement under which the Secretaries shall, among other things—

(1) determine and define the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

(2) make an assessment of the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

(3) make an initial determination of the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

(4)(A) ensure that Indians, as citizens of the United States and of the States in which they reside, have access to mental health services to which all citizens have access;

(B) determine the right of Indians to participate in, and receive the benefit of, such services; and

(C) take actions necessary to protect the exercise of such right;

(5) delineate the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

(6) provide a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 [25 U.S.C. 2401 et seq.]) with the mental health initiatives pursuant to this chapter, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to subsection (d) of this section; and

(8) provide for an annual review of such agreement by the two Secretaries.

**(c) Community mental health plan**

(1) The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a community mental health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members.

(2) In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the tribe in the development of such plan. Upon the establishment of such a plan and at the request of the tribe, such officials, as directed by the memorandum of agreement developed pursuant to subsection (c) of this section, shall cooperate with the tribe in the implementation of such plan.

(3) Two or more Indian tribes may form a coalition for the adoption of resolutions and the establishment and development of a joint community mental health plan under this subsection.

(4) The Secretary, acting through the Service, may make grants to Indian tribes adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community mental health plan and to provide

administrative support in the implementation of such plan.

**(d) Mental health training and community education programs**

(1) The Secretary and the Secretary of the Interior, in consultation with representatives of Indian tribes, shall conduct a study and compile a list, of the types of staff positions specified in paragraph (2) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness or dysfunctional and self-destructive behavior.

(2) The positions referred to in paragraph (1) are—

(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

- (i) elementary and secondary education;
- (ii) social services and family and child welfare;
- (iii) law enforcement and judicial services; and
- (iv) alcohol and substance abuse;

(B) staff positions with the Service; and

(C) staff positions similar to those identified in subparagraphs (A) and (B) established and maintained by Indian tribes, including positions established in contracts entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(3)(A) The appropriate Secretary shall provide training criteria appropriate to each type of position identified in paragraph (2)(A) and ensure that appropriate training has been, or will be, provided to any individual in any such position. With respect to any such individual in a position identified pursuant to paragraph (2)(C), the respective Secretaries shall provide appropriate training to, or provide funds to an Indian tribe for the training of, such individual. In the case of positions funded under a contract entered into under the Indian Self-Determination Act, the appropriate Secretary shall ensure that such training costs are included in the contract, if necessary.

(B) Funds authorized to be appropriated pursuant to this section may be used to provide training authorized by this paragraph for community education programs described in paragraph (5) if a plan adopted pursuant to subsection (d) of this section identifies individuals or employment categories, other than those identified pursuant to paragraph (1), for which such training or community education is deemed necessary or desirable.

(4) Position-specific training criteria described in paragraph (3) shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional Indian healing and treatment practices is provided.

(5) The Service shall develop and implement or, upon the request of an Indian tribe, assist such tribe to develop and implement, a program of community education on mental illness and dysfunctional and self-destructive behavior for individuals, as determined in a plan adopted pursuant to subsection (d) of this section. In car-

rying out this paragraph, the Service shall provide, upon the request of an Indian tribe, technical assistance to the Indian tribe to obtain or develop community education and training materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

**(e) Staffing**

(1) Within 90 days after November 28, 1990, the Secretary shall develop a plan under which the Service will increase the health care staff providing mental health services by at least 500 positions within five years after November 28, 1990, with at least 200 of such positions devoted to child, adolescent, and family services. Such additional staff shall be primarily assigned to the service unit level for services which shall include outpatient, emergency, aftercare and follow-up, and prevention and education services.

(2) The plan developed under paragraph (1) shall be implemented under section 13 of this title.

**(f) Staff recruitment and retention**

(1) The Secretary shall provide for the recruitment of the additional personnel required by subsection (f) of this section and the retention of all Service personnel providing mental health services. In carrying out this subsection, the Secretary shall give priority to practitioners providing mental health services to children and adolescents with mental health problems.

(2) In carrying out paragraph (1), the Secretary shall develop a program providing for—

(A) the payment of bonuses (which shall not be more favorable than those provided for under sections 1616i and 1616j of this title) for service in hardship posts;

(B) the repayment of loans (for which the provisions of repayment contracts shall not be more favorable than the repayment contracts under section 1616a of this title) for health professions education as a recruitment incentive; and

(C) a system of postgraduate rotations as a retention incentive.

(3) This subsection shall be carried out in coordination with the recruitment and retention programs under subchapter I of this chapter.

**(g) Mental Health Technician program**

(1) Under the authority of section 13 of this title, the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

(A) provides for the training of Indians as mental health technicians; and

(B) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

(2) In carrying out paragraph (1)(A), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

(3) The Secretary shall supervise and evaluate the mental health technicians in the training program.

(4) The Secretary shall ensure that the program established pursuant to this subsection involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

**(h) Mental health research**

The Secretary, acting through the Service and in consultation with the National Institute of Mental Health, shall enter into contracts with, or make grants to, appropriate institutions for the conduct of research on the incidence and prevalence of mental disorders among Indians on Indian reservations and in urban areas. Research priorities under this subsection shall include—

(1) the inter-relationship and inter-dependence of mental disorders with alcoholism, suicide, homicides, accidents, and the incidence of family violence, and

(2) the development of models of prevention techniques.

The effect of the inter-relationships and inter-dependencies referred to in paragraph (1) on children, and the development of prevention techniques under paragraph (2) applicable to children, shall be emphasized.

**(i) Facilities assessment**

Within one year after November 28, 1990, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

**(j) Annual report**

The Service shall develop methods for analyzing and evaluating the overall status of mental health programs and services for Indians and shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the mental health status of Indians which shall describe the progress being made to address mental health problems of Indian communities.

**(k) Mental health demonstration grant program**

(1) The Secretary, acting through the Service, is authorized to make grants to Indian tribes and inter-tribal consortia to pay 75 percent of the cost of planning, developing, and implementing programs to deliver innovative community-based mental health services to Indians. The 25 percent tribal share of such cost may be provided in cash or through the provision of property or services.

(2) The Secretary may award a grant for a project under paragraph (1) to an Indian tribe or inter-tribal consortium which meets the following criteria:

(A) The project will address significant unmet mental health needs among Indians.

(B) The project will serve a significant number of Indians.

(C) The project has the potential to deliver services in an efficient and effective manner.

(D) The tribe or consortium has the administrative and financial capability to administer the project.

(E) The project will deliver services in a manner consistent with traditional Indian healing and treatment practices.

(F) The project is coordinated with, and avoids duplication of, existing services.

(3) For purposes of this subsection, the Secretary shall, in evaluating applications for grants for projects to be operated under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], use the same criteria that the Secretary uses in evaluating any other application for such a grant.

(4) The Secretary may only award one grant under this subsection with respect to a service area until the Secretary has awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria specified in paragraph (2).

(5) Not later than 180 days after the close of the term of the last grant awarded pursuant to this subsection, the Secretary shall submit to the Congress a report evaluating the effectiveness of the innovative community-based projects demonstrated pursuant to this subsection. Such report shall include findings and recommendations, if any, relating to the reorganization of the programs of the Service for delivery of mental health services to Indians.

(6) Grants made pursuant to this section may be expended over a period of three years and no grant may exceed \$1,000,000 for the fiscal years involved.

**(l) Licensing requirement for mental health care workers**

Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this chapter or through a contract pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall—

(1) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist;

(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

**(m) Intermediate adolescent mental health services**

(1) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

(A) inpatient and outpatient services;

(B) emergency care;

(C) suicide prevention and crisis intervention; and

(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

(2) Funds provided under this subsection may be used—

(A) to construct or renovate an existing health facility to provide intermediate mental health services;

(B) to hire mental health professionals;

(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

(3) Funds provided under this subsection may not be used for the purposes described in section 1621o(b)(1) of this title.

(4) An Indian tribe or tribal organization receiving a grant under this subsection shall ensure that intermediate adolescent mental health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

(5) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this subsection.

(6) There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94-437, title II, §209, as added Pub. L. 101-630, title V, §503(b), Nov. 28, 1990, 104 Stat. 4557; amended Pub. L. 102-573, title II, §§205, 217(b)(4), title IX, §902(3), Oct. 29, 1992, 106 Stat. 4547, 4559, 4591.)

REFERENCES IN TEXT

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, referred to in subsec. (b)(6)(A), is subtitle C of title IV of Pub. L. 99-570, Oct. 27, 1986, 100 Stat. 3207-137, which is classified generally to chapter 26 (§2401 et seq.) of this title. For complete classification of subtitle C to the Code, see Short Title note set out under section 2401 of this title and Tables.

The Indian Self-Determination Act, referred to in subsecs. (d)(2)(C), (3)(A), (k)(3), and (l), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102-573, §902(3)(A), made technical amendment to section catchline.

Subsec. (b). Pub. L. 102-573, §902(3)(B), redesignated subsec. (c) as (b). Prior to amendment, no subsec. (b) had been enacted.

Subsec. (c). Pub. L. 102-573, §§217(b)(4)(A), 902(3)(B), redesignated subsec. (d) as (c) and struck out par. (5) which authorized appropriations of \$500,000 for fiscal year 1991 and \$1,000,000 for fiscal year 1992 to carry out this subsec. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 102-573, §§217(b)(4)(A), (D), 902(3)(B), redesignated subsec. (e) as (d), substituted “this section” for “this subsection” in par. (3)(B), and struck out par. (6) which authorized appropriations of \$500,000 for fiscal year 1991 and \$5,000,000 for fiscal year 1992 to carry out this subsec., with certain amounts to be allocated for community education. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 102-573, §902(3)(B), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 102-573, §§217(b)(4)(A), 902(3)(B), redesignated subsec. (g) as (f) and struck out par. (4) which appropriated \$1,200,000 for fiscal year 1992 to carry out this subsec. Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 102-573, §§217(b)(4)(A), 902(3)(B), redesignated subsec. (h) as (g) and struck out par. (5) which authorized appropriation of \$1,000,000 for fiscal year 1992 for purposes of providing training required under this subsec. Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 102-573, §§217(b)(4)(B), 902(3)(B), redesignated subsec. (i) as (h), struck out par. (1) designation before “The Secretary, acting”, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, substituted “paragraph (1)” and “paragraph (2)” for “subparagraph (A)” and “subparagraph (B)”, respectively, in closing provisions, and struck out former par. (2) which authorized appropriation of \$2,000,000 for fiscal year 1992 to carry out this subsec., to remain available until expended. Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 102-573, §§217(b)(4)(C), 902(3)(B), redesignated subsec. (j) as (i), struck out par. (1) designation before “Within one year”, and struck out par. (2) which authorized appropriation of \$500,000 for fiscal year 1992 to make the assessment required by this subsec. Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 102-573, §§205(1), 902(3)(B), redesignated subsec. (k) as (j) and substituted “submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report” for “submit to the Congress an annual report”. Former subsec. (j) redesignated (i).

Subsec. (k). Pub. L. 102-573, §§217(b)(4)(E), 902(3)(B), redesignated subsec. (l) as (k), and in par. (6) substituted “section” for “subsection” in second sentence and struck out first sentence which authorized appropriations of \$2,000,000 for fiscal year 1991 and \$3,000,000 for fiscal year 1992 to carry out purposes of this subsec. Former subsec. (k) redesignated (j).

Subsecs. (l), (m). Pub. L. 102-573, §205(2), added subsecs. (l) and (m). Former subsec. (l) redesignated (k).

#### STATEMENT OF PURPOSES

Section 503(a) of Pub. L. 101-630 provided that: “The purposes of this section [enacting this section] are to—

“(1) authorize and direct the Indian Health Service to develop a comprehensive mental health prevention and treatment program;

“(2) provide direction and guidance relating to mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services;

“(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

“(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based mental health programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams;

“(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to mental health services to which all such citizens have access; and

“(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621o, 1621w, 1671 of this title.

### § 1621i. Managed care feasibility study

(a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian tribe to purchase, directly or through the Service, managed care coverage for all members of the tribe from—

- (1) a tribally owned and operated managed care plan; or
- (2) a State licensed managed care plan.

(b) Not later than the date which is 12 months after October 29, 1992, the Secretary shall transmit to the Congress a report containing—

- (1) a detailed description of the study conducted pursuant to this section; and
- (2) a discussion of the findings and conclusions of such study.

(Pub. L. 94-437, title II, §210, as added Pub. L. 102-573, title II, §206(b), Oct. 29, 1992, 106 Stat. 4549.)

### § 1621j. California contract health services demonstration program

#### (a) Establishment

The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians.

#### (b) Agreement with California Rural Indian Health Board

(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration program, in providing medical treatment under contract to California Indians described in section 1679(b) of this title throughout the California contract health services delivery area described in section 1680 of this title with respect to high-cost contract care cases.

(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 1621a of this title or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

#### (c) Advisory board

There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from

not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

**(d) Commencement and termination dates**

The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

**(e) Report**

Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

- (1) access to needed health services;
- (2) waiting periods for receiving such services; and
- (3) the efficient management of high-cost contract care cases.

**(f) “High-cost contract care cases” defined**

For the purposes of this section, the term “high-cost contract care cases” means those cases in which the cost of the medical treatment provided to an individual—

- (1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 1621a of this title, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 1621a(b)(2) of this title; and
- (2) exceeds \$1,000.

**(g) Authorization of appropriations**

There are authorized to be appropriated for each of the fiscal years 1996 through 2000 such sums as may be necessary to carry out the purposes of this section.

(Pub. L. 94-437, title II, §211, as added Pub. L. 102-573, title II, §206(c), Oct. 29, 1992, 106 Stat. 4549; amended Pub. L. 104-313, §2(c), Oct. 19, 1996, 110 Stat. 3822.)

AMENDMENTS

1996—Subsec. (g). Pub. L. 104-313 substituted “1996 through 2000” for “1993, 1994, 1995, 1996, and 1997”.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

**§ 1621k. Coverage of screening mammography**

The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act [42

U.S.C. 1395x(jj)] for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.].

(Pub. L. 94-437, title II, §212, as added Pub. L. 102-573, title II, §207(a), Oct. 29, 1992, 106 Stat. 4550.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title XVIII of the Act is classified generally to part B (§1395j et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621 of this title.

**§ 1621l. Patient travel costs**

(a) The Secretary, acting through the Service, shall provide funds for the following patient travel costs associated with receiving health care services provided (either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.]) under this chapter—

- (1) emergency air transportation; and
- (2) nonemergency air transportation where ground transportation is infeasible.

(b) There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94-437, title II, §213, as added Pub. L. 102-573, title II, §208, Oct. 29, 1992, 106 Stat. 4551.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

**§ 1621m. Epidemiology centers**

(a)(1) The Secretary shall establish an epidemiology center in each Service area to carry out the functions described in paragraph (3).

(2) To assist such centers in carrying out such functions, the Secretary shall perform the following:

- (A) In consultation with the Centers for Disease Control and Indian tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health

status for purposes of the objectives specified in section 1602(b) of this title. Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.

(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 1602(b) of this title.

(3) In consultation with Indian tribes and urban Indian communities, each area epidemiology center established under this subsection shall, with respect to such area—

(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives described in section 1602(b) of this title using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2);

(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

(C) assist tribes and urban Indian communities in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and

(G) provide technical assistance to Indian tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community.

(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(5) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.

(b)(1) The Secretary may make grants to Indian tribes, tribal organizations, and eligible intertribal consortia or Indian organizations to conduct epidemiological studies of Indian communities.

(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if—

(A) it is incorporated for the primary purpose of improving Indian health; and

(B) it is representative of the tribes or urban Indian communities in which it is located.

(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

(4) Applicants for grants under this subsection shall—

(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

(C) demonstrate cooperation from Indian tribes or urban Indian organizations in the area to be served.

(5) A grant awarded under paragraph (1) may be used to—

(A) carry out the functions described in subsection (a)(3) of this section;

(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

(C) provide, in collaboration with tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.

(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than \$12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94-437, title II, §214, as added Pub. L. 102-573, title II, §210, Oct. 29, 1992, 106 Stat. 4551.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(4), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

### § 1621n. Comprehensive school health education programs

#### (a) Award of grants

The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

#### (b) Use of grants

Grants awarded under this section may be used to—

(1) develop health education curricula;

(2) train teachers in comprehensive school health education curricula;

(3) integrate school-based, community-based, and other public and private health promotion efforts;

(4) encourage healthy, tobacco-free school environments;

(5) coordinate school-based health programs with existing services and programs available in the community;

- (6) develop school programs on nutrition education, personal health, and fitness;
- (7) develop mental health wellness programs;
- (8) develop chronic disease prevention programs;
- (9) develop substance abuse prevention programs;
- (10) develop accident prevention and safety education programs;
- (11) develop activities for the prevention and control of communicable diseases; and
- (12) develop community and environmental health education programs.

**(c) Assistance**

The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

**(d) Criteria for review and approval of applications**

The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

**(e) Report of recipient**

Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

- (1) the number of preschools, elementary schools, and secondary schools served;
- (2) the number of students served;
- (3) any new curricula established with funds provided under this section;
- (4) the number of teachers trained in the health curricula; and
- (5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

**(f) Program development**

(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

(2) Such program shall include—

- (A) school programs on nutrition education, personal health, and fitness;
- (B) mental health wellness programs;
- (C) chronic disease prevention programs;
- (D) substance abuse prevention programs;
- (E) accident prevention and safety education programs; and
- (F) activities for the prevention and control of communicable diseases.

(3) The Secretary of the Interior shall—

- (A) provide training to teachers in comprehensive school health education curricula;
- (B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and
- (C) encourage healthy, tobacco-free school environments.

**(g) Authorization of appropriations**

There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94-437, title II, §215, as added Pub. L. 102-573, title II, §211, Oct. 29, 1992, 106 Stat. 4553.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621w of this title.

**§ 1621o. Indian youth grant program**

**(a) Grants**

The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths.

**(b) Use of funds**

(1) Funds made available under this section may be used to—

- (A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and
- (B) develop and provide community training and education.

(2) Funds made available under this section may not be used to provide services described in section 1621h(m) of this title.

**(c) Models for delivery of comprehensive health care services**

The Secretary shall—

- (1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;
- (2) encourage the implementation of such models; and
- (3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

**(d) Criteria for review and approval of applications**

The Secretary shall establish criteria for the review and approval of applications under this section.

**(e) Authorization of appropriations**

There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(Pub. L. 94-437, title II, §216, as added Pub. L. 102-573, title II, §212, Oct. 29, 1992, 106 Stat. 4554.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621h, 1621w of this title.



### **§ 1621p. American Indians Into Psychology Program**

#### **(a) Grants**

The Secretary may provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field.

#### **(b) Quentin N. Burdick American Indians Into Psychology Program**

The Secretary shall provide one of the grants authorized under subsection (a) of this section to develop and maintain a program at the University of North Dakota to be known as the "Quentin N. Burdick American Indians Into Psychology Program". Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 1616g(b) of this title, the Quentin N. Burdick American Indians Into Nursing Program authorized under section 1616e(e) of this title, and existing university research and communications networks.

#### **(c) Issuance of regulations**

(1) The Secretary shall issue regulations for the competitive awarding of the grants provided under this section.

(2) Applicants for grants under this section shall agree to provide a program which, at a minimum—

(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program;

(B) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

(C) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiential activities;

(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate entities to enhance the education of Indian students;

(F) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and

(G) to the maximum extent feasible, employs qualified Indians in the program.

#### **(d) Active duty service obligation**

The active duty service obligation prescribed under section 254m of title 42 shall be met by each graduate student who receives a stipend described in subsection (c)(2)(D) of this section that is funded by a grant provided under this section. Such obligation shall be met by service—

(1) in the Indian Health Service;

(2) in a program conducted under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(3) in a program assisted under subchapter IV of this chapter; or

(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

(Pub. L. 94-437, title II, §217, as added Pub. L. 102-573, title II, §213, Oct. 29, 1992, 106 Stat. 4555.)

#### **REFERENCES IN TEXT**

The Indian Self-Determination Act, referred to in subsec. (d)(2), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 1616e, 1616g of this title.

### **§ 1621q. Prevention, control, and elimination of tuberculosis**

#### **(a) Grants**

The Secretary, acting through the Service after consultation with the Centers for Disease Control, may make grants to Indian tribes and tribal organizations for—

(1) projects for the prevention, control, and elimination of tuberculosis;

(2) public information and education programs for the prevention, control, and elimination of tuberculosis; and

(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health professionals.

#### **(b) Application for grant**

The Secretary may make a grant under subsection (a) of this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains the assurances required by subsection (c) of this section and such other agreements, assurances, and information as the Secretary may require.

#### **(c) Eligibility for grant**

To be eligible for a grant under subsection (a) of this section, an applicant must provide assurances satisfactory to the Secretary that—

(1) the applicant will coordinate its activities for the prevention, control, and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and

(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis.

#### **(d) Duties of Secretary**

In carrying out this section, the Secretary—

(1) shall establish criteria for the review and approval of applications for grants under subsection (a) of this section, including require-

ment of public health qualifications of applicants;

(2) shall, subject to available appropriations, make at least one grant under subsection (a) of this section within each area office;

(3) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

(4) shall prepare and submit a report to the Committee on Energy and Commerce and the Committee on Natural Resources of the House and the Committee on Indian Affairs of the Senate not later than February 1, 1994, and biennially thereafter, on the use of funds under this section and on the progress made toward the prevention, control, and elimination of tuberculosis among Indian tribes and tribal organizations.

**(e) Reduction of amount of grant**

The Secretary may, at the request of a recipient of a grant under subsection (a) of this section, reduce the amount of such grant by—

(1) the fair market value of any supplies or equipment furnished the grant recipient; and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) of this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(Pub. L. 94-437, title II, §218, as added Pub. L. 102-573, title II, §214, Oct. 29, 1992, 106 Stat. 4556; amended Pub. L. 103-437, §10(e)(1), (2)(B), Nov. 2, 1994, 108 Stat. 4589.)

**AMENDMENTS**

1994—Subsec. (d)(4). Pub. L. 103-437 substituted “Committee on Indian” for “Select Committee on Indian” and “Natural Resources” for “Interior and Insular Affairs”.

**CHANGE OF NAME**

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102-531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives and Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

**§ 1621r. Contract health services payment study**

**(a) Duty of Secretary**

The Secretary, acting through the Service and in consultation with representatives of Indian

tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study—

(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary;

(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and

(3) to determine the most efficient and effective means of improving the Service’s contract health services payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients’ rights and responsibilities.

**(b) Functions of study**

The study required by subsection (a) of this section shall—

(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;

(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;

(3) survey the policies and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;

(4) identify appropriate changes in Federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and

(5) compare the Service’s payment processing requirements with private insurance claims processing requirements to evaluate the systemic differences or similarities employed by the Service and private insurers.

**(c) Report to Congress**

Not later than 12 months after October 29, 1992, the Secretary shall transmit to the Congress a report that includes—

(1) a detailed description of the study conducted pursuant to this section; and

(2) a discussion of the findings and conclusions of such study.

(Pub. L. 94-437, title II, §219, as added Pub. L. 102-573, title II, §215, Oct. 29, 1992, 106 Stat. 4557.)

**REFERENCES IN TEXT**

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88

Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

### **§ 1621s. Prompt action on payment of claims**

#### **(a) Time of response**

The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

#### **(b) Failure to timely respond**

If the Service fails to respond to a notification of a claim in accordance with subsection (a) of this section, the Service shall accept as valid the claim submitted by the provider of a contract care service.

#### **(c) Time of payment**

The Service shall pay a completed contract care service claim within 30 days after completion of the claim.

(Pub. L. 94-437, title II, § 220, as added Pub. L. 102-573, title II, § 215, Oct. 29, 1992, 106 Stat. 4558.)

### **§ 1621t. Demonstration of electronic claims processing**

(a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services.

(b) The Secretary shall conduct one of the projects authorized in subsection (a) of this section in the Service area served by the area office located in Phoenix, Arizona.

(Pub. L. 94-437, title II, § 221, as added Pub. L. 102-573, title II, § 215, Oct. 29, 1992, 106 Stat. 4559.)

### **§ 1621u. Liability for payment**

(a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

(b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

(Pub. L. 94-437, title II, § 222, as added Pub. L. 102-573, title II, § 215, Oct. 29, 1992, 106 Stat. 4559.)

### **§ 1621v. Office of Indian Women's Health Care**

There is established within the Service an Office of Indian Women's Health Care to oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

(Pub. L. 94-437, title II, § 223, as added Pub. L. 102-573, title II, § 216, Oct. 29, 1992, 106 Stat. 4559.)

### **§ 1621w. Authorization of appropriations**

Except as provided in sections 1621h(m), 1621j, 1621i, 1621m(b)(5), 1621n, and 1621o of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94-437, title II, § 224, as added Pub. L. 102-573, title II, § 217(a), Oct. 29, 1992, 106 Stat. 4559.)

### **§ 1622. Transferred**

#### **CODIFICATION**

Section, Pub. L. 94-437, title IV, § 404, as added Pub. L. 96-537, § 6, Dec. 17, 1980, 94 Stat. 3176, which related to grants to and contracts with tribal organizations, was transferred to section 1644 of this title.

## **SUBCHAPTER III—HEALTH FACILITIES**

### **§ 1631. Consultation; closure of facilities; reports**

#### **(a) Consultation; standards for accreditation**

Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to section 13 of this title, the Secretary, acting through the Service, shall—

(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

(2) ensure, whenever practicable, that such facility meets the standards of the Joint Commission on Accreditation of Health Care Organizations by not later than 1 year after the date on which the construction or renovation of such facility is completed.

#### **(b) Closure; report on proposed closure**

(1) Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility of the Service, or any portion of such a hospital or facility, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such hospital or facility (or portion thereof) is proposed to be closed an evaluation of the impact of such proposed closure which specifies, in addition to other considerations—

(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

(B) the cost effectiveness of such closure;

(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

(D) the availability of contract health care funds to maintain existing levels of service;

(E) the views of the Indian tribes served by such hospital or facility concerning such closure;

(F) the level of utilization of such hospital or facility by all eligible Indians; and

(G) the distance between such hospital or facility and the nearest operating Service hospital.

(2) Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

**(c) Annual report on health facility priority system**

(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report which sets forth—

(A) the current health facility priority system of the Service,

(B) the planning, design, construction, and renovation needs for the 10 top-priority inpatient care facilities and the 10 top-priority ambulatory care facilities (together with required staff quarters),

(C) the justification for such order of priority,

(D) the projected cost of such projects, and

(E) the methodology adopted by the Service in establishing priorities under its health facility priority system.

(2) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall—

(A) consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], and

(B) review the needs of such tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

(3) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

(4) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act are fully and equitably integrated into the development of the health facility priority system.

**(d) Funds appropriated subject to section 450f of this title**

All funds appropriated under section 13 of this title for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination Act [25 U.S.C. 450f].

(Pub. L. 94-437, title III, § 301, Sept. 30, 1976, 90 Stat. 1406; Pub. L. 100-713, title III, § 301, Nov. 23, 1988, 102 Stat. 4812; Pub. L. 102-573, title III, § 301, title IX, § 902(4)(B), Oct. 29, 1992, 106 Stat. 4560, 4591.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (c)(2) to (4), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified prin-

cipally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102-573, § 301(1), substituted “Health Care Organizations” for “Hospitals”.

Subsec. (b)(1). Pub. L. 102-573, § 301(2), struck out “other” before “outpatient health care facility” in introductory provisions and added subpars. (F) and (G).

Subsec. (c). Pub. L. 102-573, § 301(3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “The President shall include with the budget submitted under section 1105 of title 31, for each of the fiscal years 1990, 1991, and 1992, program information documents for the construction of 10 Indian health facilities which—

“(1) comply with applicable construction standards, and

“(2) have been approved by the Secretary.”

Subsec. (c)(1). Pub. L. 102-573, § 301(4), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The Secretary shall submit to the Congress an annual report which sets forth—”.

Subsec. (c)(2) to (5). Pub. L. 102-573, § 301(5), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: “The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after November 23, 1988, and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31.”

Subsecs. (d), (e). Pub. L. 102-573, §§ 301(3), 902(4)(B), redesignated subsec. (e) as (d) and substituted “section 102 of the Indian Self-Determination Act” for “sections 102 and 103(b) of the Indian Self-Determination Act”. Former subsec. (d) redesignated (c).

1988—Pub. L. 100-713 amended section generally, substituting subsecs. (a) to (e) relating to consultation, closure of facilities, and reports for former subsecs. (a) to (c) relating to construction and renovation of Service facilities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1636, 1671 of this title.

**§ 1632. Safe water and sanitary waste disposal facilities**

**(a) Congressional findings**

The Congress hereby finds and declares that—

(1) the provision of safe water supply systems and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such systems;

(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;

(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; and

(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new

and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible.

**(b) Authority; assistance; transfer of funds**

(1) In furtherance of the findings and declarations made in subsection (a) of this section, Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 2004a of title 42.

(2) The Secretary, acting through the Service, is authorized to provide under section 2004a of title 42—

(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;

(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities.

(3) Notwithstanding any other provision of law—

(A) the Secretary of Housing and Urban Affairs is authorized to transfer funds appropriated under the Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.) to the Secretary of Health and Human Services, and

(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 2004a of title 42.

**(c) 10-year plan**

Beginning in fiscal year 1990, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitation sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

**(d) Tribal capability**

The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

**(e) Amount of assistance**

(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c) of this section.

(2) For the purposes of paragraph (1), the term “Federal share” means 80 percent of the costs described in paragraph (1).

(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in

part, through cash donations or in kind property, fairly evaluated.

**(f) Eligibility of programs administered by Indian tribes**

Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] shall be eligible for—

(1) any funds appropriated pursuant to this section, and

(2) any funds appropriated for the purpose of providing water supply or sewage disposal services,

on an equal basis with programs that are administered directly by the Service.

**(g) Annual report; sanitation deficiency levels**

(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report which sets forth—

(A) the current Indian sanitation facility priority system of the Service;

(B) the methodology for determining sanitation deficiencies;

(C) the level of sanitation deficiency for each sanitation facilities project of each Indian tribe or community;

(D) the amount of funds necessary to raise all Indian tribes and communities to a level I sanitation deficiency; and

(E) the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.

(2) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]) to determine the sanitation needs of each tribe.

(3) The methodology used by the Secretary in determining sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

(4) For purposes of this subsection, the sanitation deficiency levels for an Indian tribe or community are as follows:

(A) level I is an Indian tribe or community with a sanitation system—

(i) which complies with all applicable water supply and pollution control laws, and

(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs;

(B) level II is an Indian tribe or community with a sanitation system—

(i) which complies with all applicable water supply and pollution control laws, and

(ii) in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities;

(C) level III is an Indian tribe or community with a sanitation system which—

(i) has an inadequate or partial water supply and a sewage disposal facility that does

not comply with applicable water supply and pollution control laws, or

(ii) has no solid waste disposal facility;

(D) level IV is an Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system; and

(E) level V is an Indian tribe or community that lacks a safe water supply and a sewage disposal system.

(5) For purposes of this subsection, any Indian tribe or community that lacks the operation and maintenance capability to enable its sanitation system to meet pollution control laws may not be treated as having a level I or II sanitation deficiency.

(Pub. L. 94-437, title III, § 302, Sept. 30, 1976, 90 Stat. 1407; Pub. L. 100-713, title III, § 302, Nov. 23, 1988, 102 Stat. 4814; Pub. L. 102-573, title III, §§ 302, 307(b)(1), Oct. 29, 1992, 106 Stat. 4560, 4564.)

#### REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (b)(3)(A), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

The Indian Self-Determination Act, referred to in subsecs. (f) and (g)(2), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (e). Pub. L. 102-573, § 302(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The provisions of this section shall not diminish the primary responsibility of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities.”

Subsec. (f)(1). Pub. L. 102-573, § 302(2), substituted “this section” for “subsection (h) of this section”.

Subsec. (g)(1). Pub. L. 102-573, § 302(3)(A), substituted “The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report” for “The Secretary shall submit to the Congress an annual report”.

Subsec. (g)(2) to (6). Pub. L. 102-573, § 302(3)(B), redesignated pars. (3) to (6) as (2) to (5), respectively, and struck out former par. (2) which read as follows: “The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after November 23, 1988, and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31.”

Subsec. (h). Pub. L. 102-573, § 307(b)(1), struck out subsec. (h) which authorized appropriations to carry out subsec. (b)(2) for fiscal years 1990 to 1992.

1988—Pub. L. 100-713 amended section generally, substituting subsecs. (a) to (h) relating to safe water and sanitary waste disposal facilities for former subsecs. (a) to (c) relating to construction of safe water and sanitary waste disposal facilities.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1633, 1671, 3905, 3908 of this title.

### § 1633. Preferences to Indians and Indian firms

#### (a) Discretionary authority; covered activities

The Secretary, acting through the Service, may utilize the negotiating authority of section 47 of this title, to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an “Indian firm”) in the construction and renovation of Service facilities pursuant to section 1631 of this title and in the construction of safe water and sanitary waste disposal facilities pursuant to section 1632 of this title. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

#### (b) Pay rates

For the purpose of implementing the provisions of this subchapter, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this subchapter are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a to 276a-5, known as the Davis-Bacon Act).

(Pub. L. 94-437, title III, § 303, Sept. 30, 1976, 90 Stat. 1407.)

#### REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (b), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

### § 1634. Expenditure of non-Service funds for renovation

#### (a) Authority of Secretary

(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], including—

(A) any plans or designs for such renovation or modernization; and

(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) of this section are met.

(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

(3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, the priority list maintained pursuant to paragraph (2).

**(b) Requirements**

The requirements of this subsection are met with respect to any renovation or modernization if—

(1) the tribe or tribal organization—

(A) provides notice to the Secretary of its intent to renovate or modernize; and

(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

(2) the renovation or modernization—

(A) is approved by the appropriate area director of the Service; and

(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

**(c) Recovery for non-use as Service facility**

If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.

(Pub. L. 94-437, title III, § 305, as added Pub. L. 96-537, § 5, Dec. 17, 1980, 94 Stat. 3175; amended Pub. L. 100-713, title III, § 303(a), Nov. 23, 1988, 102 Stat. 4816; Pub. L. 102-573, title III, § 305, Oct. 29, 1992, 106 Stat. 4563.)

**REFERENCES IN TEXT**

The Indian Self-Determination Act, referred to in subsec. (a)(1), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**AMENDMENTS**

1992—Pub. L. 102-573 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a), authority of Secretary; in subsec. (b), requirements; in subsec. (c), higher priority project; and in subsec. (d), recovery for non-use as Service facility.

1988—Pub. L. 100-713 amended section generally, substituting “Expenditure of non-Service funds for renovation” for “Authorization of appropriations” in section catchline and subssecs. (a) to (d) for former single unlettered par.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1671 of this title.

**§ 1635. Repealed. Pub. L. 100-713, title III, § 303(b), Nov. 23, 1988, 102 Stat. 4817**

Section, Pub. L. 98-473, title I, § 101(c) [title II, § 201], Oct. 12, 1984, 98 Stat. 1837, 1865, related to renovation and modernization of facilities.

**§ 1636. Grant program for construction, expansion, and modernization of small ambulatory care facilities**

**(a) Authorization**

(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided in subsection (c)(1)(C) of this section). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term “construction” includes the replacement of an existing facility.

(2) A grant under paragraph (1) may only be made to a tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to a tribe or tribal organization) pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

**(b) Use of grant**

(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

(A) located apart from a hospital;

(B) not funded under section 1631 of this title or section 1637 of this title; and

(C) which, upon completion of such construction, expansion, or modernization will—

(i) have a total capacity appropriate to its projected service population;

(ii) serve no less than 500 eligible Indians annually; and

(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]) with a population of not less than 2,000 eligible Indians.

(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

**(c) Application for grant**

(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expan-

sion, or modernization of a facility carried out pursuant to a grant received under this section—

(A) adequate financial support will be available for the provision of services at such facility;

(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

(A) a need for increased ambulatory care services; and

(B) insufficient capacity to deliver such services.

**(d) Transfer of interest to United States upon cessation of facility**

If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.

(Pub. L. 94-437, title III, § 306, as added Pub. L. 100-713, title III, § 304, Nov. 23, 1988, 102 Stat. 4817; amended Pub. L. 102-573, title III, § 303, Oct. 29, 1992, 106 Stat. 4561.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (a)(2) and (b)(1)(C)(iii), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102-573 amended section generally, substituting provisions relating to grant program for construction, expansion, and modernization of small ambulatory care facilities for provisions relating to conveyance of certain real property under Alaska Native Claims Settlement Act.

**§ 1637. Indian health care delivery demonstration project**

**(a) Health care delivery demonstration projects**

The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities to Indians.

**(b) Use of funds**

The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

(1) waive any leasing prohibition;

(2) permit carryover of funds appropriated for the provision of health care services;

(3) permit the use of non-Service Federal funds and non-Federal funds;

(4) permit the use of funds or property donated from any source for project purposes; and

(5) provide for the reversion of donated real or personal property to the donor.

**(c) Criteria**

(1) Within 180 days after November 28, 1990, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and publish in the Federal Register criteria for the review and approval of applications submitted under this section. The Secretary may enter into a contract or award a grant under this section for projects which meet the following criteria:

(A) There is a need for a new facility or program or the reorientation of an existing facility or program.

(B) A significant number of Indians, including those with low health status, will be served by the project.

(C) The project has the potential to address the health needs of Indians in an innovative manner.

(D) The project has the potential to deliver services in an efficient and effective manner.

(E) The project is economically viable.

(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

(2) The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

(3)(A) On or before September 30, 1995, the Secretary shall enter into contracts or award grants under this section for a demonstration project in each of the following service units which meets the criteria specified in paragraph (1) and for which a completed application has been received by the Secretary:

(i) Cass Lake, Minnesota.

(ii) Clinton, Oklahoma.

(iii) Harlem, Montana.

(iv) Mescalero, New Mexico.

(v) Owyhee, Nevada.

(vi) Parker, Arizona.

(vii) Schurz, Nevada.

(viii) Winnebago, Nebraska.

(ix) Ft. Yuma, California.

(B) The Secretary may also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the



Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).

**(d) Technical assistance**

The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

**(e) Service to ineligible persons**

The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in service facilities to non-Service health care practitioners as provided in section 1680c of this title may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

**(f) Equitable treatment**

For purposes of subsection (c)(1)(A) of this section, the Secretary shall, in evaluating facilities operated under any contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

**(g) Equitable integration of facilities**

The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

**(h) Report to Congress**

(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 1671 of this title for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 1671 of this title for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.

(Pub. L. 94-437, title III, §307, as added Pub. L. 101-630, title V, §504, Nov. 28, 1990, 104 Stat. 4562; amended Pub. L. 102-573, title III, §§304, 307(b)(2), title VII, §701(c)(2), title IX, §902(4)(A), Oct. 29, 1992, 106 Stat. 4562, 4564, 4572, 4591.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (f) and (g), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102-573, §902(4)(A), made technical amendment to section catchline.

Subsec. (c)(1)(A). Pub. L. 102-573, §304(a)(1), inserted “or program” after “facility” in two places.

Subsec. (c)(3)(A). Pub. L. 102-573, §304(a)(2), substituted “On or before September 30, 1995, the” for “The” and inserted “and for which a completed application has been received by the Secretary” after “paragraph (1)”.

Subsec. (c)(3)(B). Pub. L. 102-573, §304(a)(3), which directed amendment of subsec. (c) by striking subpar. (B) and inserting a new subpar. (B), was executed by making the amendment in par. (3) of subsec. (c) to reflect the probable intent of Congress. Prior to amendment, subpar. (B) read as follows: “After entering into contracts or awarding grants in accordance with subparagraph (A), and taking into account contracts entered into and grants awarded under such subparagraph, the Secretary may only enter into one contract or award one grant under this subsection with respect to a service area until the Secretary has entered into contracts or awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria developed under paragraph (1).”

Subsec. (e). Pub. L. 102-573, §701(c)(2), made technical amendment to the reference to section 1680c of this title to reflect renumbering of corresponding section of original act.

Subsec. (h). Pub. L. 102-573, §304(b), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “Within 90 days after the end of the period set out in subsection (a) of this section, the Secretary shall prepare and submit to Congress a report, together with legislative recommendations, on the findings and conclusions derived from the demonstration projects.”

Subsec. (i). Pub. L. 102-573, §307(b)(2), struck out subsec. (i) which authorized appropriation of such sums as necessary for fiscal years 1991 and 1992 for purpose of carrying out this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1636, 1671 of this title.

**§ 1638. Land transfer**

The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

(Pub. L. 94-437, title III, §308, as added Pub. L. 102-573, title III, §306, Oct. 29, 1992, 106 Stat. 4564.)

**§ 1638a. Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94-437, title III, §309, as added Pub. L. 102-573, title III, §307(a), Oct. 29, 1992, 106 Stat. 4564.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1638b of this title.

**§ 1638b. Applicability of Buy American requirement**

**(a) Duty of Secretary**

The Secretary shall ensure that the requirements of the Buy American Act [41 U.S.C. 10a et

seq.] apply to all procurements made with funds provided pursuant to the authorization contained in section 1638a of this title.

**(b) Report to Congress**

The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 1638a of this title. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act [41 U.S.C. 10a et seq.] was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

**(c) Fraudulent use of Made-in-America label**

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 1638a of this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

**(d) “Buy American Act” defined**

For purposes of this section, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

(Pub. L. 94-437, title III, §310, as added Pub. L. 102-573, title III, §308, Oct. 29, 1992, 106 Stat. 4564.)

REFERENCES IN TEXT

The Buy American Act, referred to in subsecs. (a), (b), and (d), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, which is classified generally to sections 10a, 10b, and 10c of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

The Trade Agreement Act of 1979, referred to in subsec. (b), probably means the Trade Agreements Act of 1979, Pub. L. 96-39, July 26, 1979, 93 Stat. 144, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of Title 19, Customs Duties, and Tables.

**§ 1638c. Contracts for personal services in Indian Health Service facilities**

In fiscal year 1995 and thereafter (a) the Secretary may enter into personal services contracts with entities, either individuals or organizations, for the provision of services in facilities owned, operated or constructed under the jurisdiction of the Indian Health Service; (b) the Secretary may exempt such a contract from competitive contracting requirements upon adequate notice of contracting opportunities to individuals and organizations residing in the geographic vicinity of the health facility; (c) consideration of individuals and organizations shall

be based solely on the qualifications established for the contract and the proposed contract price; and (d) individuals providing health care services pursuant to these contracts are covered by the Federal Tort Claims Act.

(Pub. L. 103-332, title II, Sept. 30, 1994, 108 Stat. 2530.)

REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in text, is classified generally to section 1346(b) and chapter 171 (§2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1995, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

**§ 1638d. Credit to appropriations of money collected for meals at Indian Health Service facilities**

Money before, on, and after September 30, 1994, collected for meals served at Indian Health Service facilities will be credited to the appropriations from which the services were furnished and shall be credited to the appropriation when received.

(Pub. L. 103-332, title II, Sept. 30, 1994, 108 Stat. 2530.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1995, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

**SUBCHAPTER III-A—ACCESS TO HEALTH SERVICES**

CODIFICATION

This subchapter was in the original title IV of Pub. L. 94-437, as amended. Prior to amendment by Pub. L. 102-573, title IV enacted section 1622 of this title and sections 1395qq and 1396j of Title 42, The Public Health and Welfare, amended sections 1395f, 1395n, and 1396d of Title 42, and enacted provisions set out as notes under section 1671 of this title and sections 1395qq and 1396j of Title 42.

**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in section 1621f of this title.

**§ 1641. Treatment of payments under medicare program**

**(a) Determination of appropriations**

Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] shall not be considered in determining appropriations for health care and services to Indians.

**(b) Preferences**

Nothing in this chapter authorizes the Secretary to provide services to an Indian bene-

ficiary with coverage under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], as amended, in preference to an Indian beneficiary without such coverage.

(Pub. L. 94-437, title IV, § 401, Sept. 30, 1976, 90 Stat. 1408; Pub. L. 102-573, title IV, § 401(a), Oct. 29, 1992, 106 Stat. 4565.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Social Security Act, referred to in subsecs. (a) and (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### CODIFICATION

Prior to general amendment by Pub. L. 102-573, section 401 of Pub. L. 94-437, in subsec. (a) amended sections 1395f and 1395n of Title 42, The Public Health and Welfare, in subsec. (b) enacted section 1395qq of Title 42, and in subsecs. (c) and (d) enacted provisions set out as notes under section 1395qq of Title 42 which were restated in this section.

#### AMENDMENTS

1992—Pub. L. 102-573 amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (d). See Codification note above.

### § 1642. Treatment of payments under medicaid program

#### (a) Payments to special fund

Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]) is entitled under a State plan by reason of section 1911 of such Act [42 U.S.C. 1396j] shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

#### (b) Determination of appropriations

Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] shall not be considered in determining appropriations for the provision of health care and services to Indians.

(Pub. L. 94-437, title IV, § 402, Sept. 30, 1976, 90 Stat. 1409; Pub. L. 100-713, title IV, § 401(a), (b),

Nov. 23, 1988, 102 Stat. 4818; Pub. L. 102-573, title IV, § 401(b)(1), Oct. 29, 1992, 106 Stat. 4565.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### CODIFICATION

Prior to general amendment by Pub. L. 102-573, section 402 of Pub. L. 94-437, in subsec. (a) enacted section 1396j of Title 42, The Public Health and Welfare, in subsecs. (b) to (d) enacted provisions set out as notes under section 1396j of Title 42 (of which subsecs. (c) and (d) were restated in this section), and in subsec. (e) amended section 1396d of Title 42.

#### AMENDMENTS

1992—Pub. L. 102-573 amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (e). See Codification note above.

1988—Subsec. (b). Pub. L. 100-713, § 401(b), struck out subsec. (b) which authorized Secretary of Health and Human Services to enter into agreements to reimburse State agencies for health care and services provided in Indian Health Service facilities to Indians eligible for medical assistance under title XIX of the Social Security Act.

Subsec. (c). Pub. L. 100-713, § 401(a), substituted “skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under a State plan for medical assistance approved under title XIX of the Social Security Act” for “or skilled nursing facility”, “such a State plan” for “a State plan approved under title XIX of the Social Security Act”, and “In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of title XIX of the Social Security Act. This subsection shall” for “The preceding sentence shall”.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Section 401(b)(2) of Pub. L. 102-573 provided that: “The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) [amending this section] shall take effect beginning with payments made on January 1, 1993.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 401(c) of Pub. L. 100-713 provided that: “The amendments made by this section [amending this section] shall apply to services performed on or after the date of the enactment of this Act [Nov. 23, 1988].”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1645, 1680c of this title.

### § 1643. Amount and use of funds reimbursed through medicare and medicaid available to Indian Health Service

The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title, an accounting on the amount and use of funds made available to the Service pursuant to this subchapter as a result of reimbursements

through titles XVIII and XIX of the Social Security Act, as amended [42 U.S.C. 1395 et seq., 1396 et seq.].

(Pub. L. 94-437, title IV, § 403, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 102-573, title IV, § 402, Oct. 29, 1992, 106 Stat. 4566.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### CODIFICATION

Section was formerly set out as a note under section 1671 of this title.

#### AMENDMENTS

1992—Pub. L. 102-573 substituted “The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title,” for “The Secretary shall include in his annual report required by section 1671 of this title”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title; title 42 section 1395q.

### § 1644. Grants to and contracts with tribal organizations

#### (a) Access to health services

The Secretary, acting through the Service, shall make grants to or enter into contracts with tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

- (1) enroll under section 1818 of part A and sections 1836 and 1837 of part B of title XVIII of the Social Security Act [42 U.S.C. 1395i-2, 1395o, 1395p];
- (2) pay monthly premiums for coverage due to financial need of such individual; and
- (3) apply for medical assistance provided pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

#### (b) Terms and conditions

The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any contract or grant which the Secretary makes with any tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

- (1) determine the population of Indians to be served that are or could be recipients of benefits under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.];
- (2) assist individual Indians in becoming familiar with and utilizing such benefits;
- (3) provide transportation to such individual Indians to the appropriate offices for enrollment or application for medical assistance;
- (4) develop and implement—
  - (A) a schedule of income levels to determine the extent of payments of premiums by

such organizations for coverage of needy individuals; and

(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

#### (c) Application for medical assistance

The Secretary, acting through the Service, may enter into an agreement with an Indian tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] at a Service facility or a health care facility administered by such tribe or organization pursuant to a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(Pub. L. 94-437, title IV, § 404, as added Pub. L. 96-537, § 6, Dec. 17, 1980, 94 Stat. 3176; amended Pub. L. 102-573, title IV, § 403, Oct. 29, 1992, 106 Stat. 4566.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (3), (b)(1), (4)(B), and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Indian Self-Determination Act, referred to in subsec. (c), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### CODIFICATION

Section was formerly classified to section 1622 of this title.

#### AMENDMENTS

1992—Subsec. (b)(4). Pub. L. 102-573, § 403(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “develop and implement a schedule of income levels to determine the extent of payment of premiums by such organization for coverage of needy individuals; and methods of improving the participation of Indians in receiving the benefits provided pursuant to titles XVIII and XIX of the Social Security Act.”

Subsec. (c). Pub. L. 102-573, § 403(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “There are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1981, \$5,750,000 for the fiscal year ending September 30, 1982, \$6,615,000 for the fiscal year ending September 30, 1983, and \$7,610,000 for the fiscal year ending September 30, 1984.”

### § 1645. Demonstration program for direct billing of medicare, medicaid, and other third party payors

#### (a) Establishment

The Secretary shall establish a demonstration program under which Indian tribes, tribal organizations, and Alaska Native health organizations, which are contracting the entire operation of an entire hospital or clinic of the Serv-

ice under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.], shall directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (medicaid), or from any other third-party payor. The last sentence of section 1905(b) of the Social Security Act [42 U.S.C. 1396d(b)] shall apply for purposes of the demonstration program.

**(b) Direct reimbursement**

(1) Each hospital or clinic participating in the demonstration program described in subsection (a) of this section shall be reimbursed directly under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act [42 U.S.C. 1395qq(c)] and sections 1642(a) and 1680c(b)(2)(A) of this title, but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used—

(A) solely for improving the health resources deficiency level of the Indian tribe, and

(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(2) The amounts paid to the hospitals and clinics participating in the demonstration program described in subsection (a) of this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.

(3) The Secretary shall monitor the performance of hospitals and clinics participating in the demonstration program described in subsection (a) of this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it to be necessary).

(4) Notwithstanding section 1880(c) of the Social Security Act [42 U.S.C. 1395qq(c)] or section 1642(a) of this title, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act, or section 1642(a) of this title, for the benefit of any hospital or clinic participating in the demonstration program described in subsection (a) of this section during the period of such participation.

**(c) Requirements for participation**

(1) In order to be considered for participation in the demonstration program described in subsection (a) of this section, a hospital or clinic must submit an application to the Secretary which establishes to the satisfaction of the Secretary that—

(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts the entire operation of the Service facility.

(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act [42 U.S.C. 1395qq, 1396j];

(C) the facility meets any requirements which apply to programs operated directly by the Service; and

(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1990.

(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1989, select no more than 4 facilities to participate in the demonstration program described in subsection (a) of this section. The demonstration program described in subsection (a) of this section shall begin by no later than October 1, 1991, and end on September 30, 1998.

**(d) Examination and implementation changes**

(1) On November 23, 1988, the Secretary, acting through the Service, shall commence an examination of—

(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstration program described in subsection (a) of this section, including any agreements with States which may be necessary to provide for such direct billing under the medicaid program; and

(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Service medical records information on patients served under such demonstration program which is consistent with the medical records information system of the Service.

(2) Prior to the commencement of the demonstration program described in subsection (a) of this section, the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1).

(3) Prior to October 1, 1990, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) of this section would be required to report.

**(e) Report**

The Secretary shall submit a final report at the end of fiscal year 1996, on the activities carried out under the demonstration program described in subsection (a) of this section which shall include an evaluation of whether such activities have fulfilled the objectives of such program. In such report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing of, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian tribes and Alaska Native health organizations which are contracting the entire operation of a facility of the Service.

**(f) Retrocession of contract**

The Secretary shall provide for the retrocession of any contract entered into between a par-

ticipant in the demonstration program described in subsection (a) of this section and the Service under the authority of the Indian Self-Determination Act [25 U.S.C. 450f et seq.]. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.

(Pub. L. 94-437, title IV, § 405, as added Pub. L. 100-713, title IV, § 402, Nov. 23, 1988, 102 Stat. 4818; amended Pub. L. 102-573, title IV, § 404, title VII, § 701(c)(3), Oct. 29, 1992, 106 Stat. 4566, 4572; Pub. L. 104-313, § 2(d), Oct. 19, 1996, 110 Stat. 3822.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (a), (b)(1)(B), and (f), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### CODIFICATION

Section was formerly set out as a note under section 1395qq of Title 42, The Public Health and Welfare.

#### AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104-313 substituted “1998” for “1996”.

1992—Subsec. (b)(1). Pub. L. 102-573, § 701(c)(3)(A), substituted “sections 1642(a)” for “sections 402(c)” and made technical amendment to reference to section 1680c(b)(2)(A) to reflect renumbering of corresponding section of original act.

Subsec. (b)(4). Pub. L. 102-573, § 701(c)(3)(B), substituted “section 1642(a)” for “section 402(c)” in two places.

Subsec. (c)(2). Pub. L. 102-573, § 404(1), substituted “1996” for “1995”.

Subsec. (e). Pub. L. 102-573, § 404(2), substituted “1996” for “1995”.

### § 1646. Authorization for emergency contract health services

With respect to an elderly or disabled Indian receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this chapter, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

(Pub. L. 94-437, title IV, § 406, as added Pub. L. 102-573, title IV, § 405, Oct. 29, 1992, 106 Stat. 4566.)

### § 1647. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94-437, title IV, § 407, as added Pub. L. 102-573, title IV, § 406, Oct. 29, 1992, 106 Stat. 4566.)

## SUBCHAPTER IV—HEALTH SERVICES FOR URBAN INDIANS

### CODIFICATION

This subchapter was in the original title V of Pub. L. 94-437. Title IV of Pub. L. 94-437 is classified to subchapter III-A of this chapter.

### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1603, 1613a, 1616a, 1616e, 1621p, 1665b, 1665g of this title; title 42 sections 256b, 1395x, 1396d, 1396r-1, 1396s.

### § 1651. Purpose

The purpose of this subchapter is to establish programs in urban centers to make health services more accessible to urban Indians.

(Pub. L. 94-437, title V, § 501, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4820.)

### PRIOR PROVISIONS

A prior section 1651, Pub. L. 94-437, title V, § 501, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3176, related to Congressional statement of purpose, prior to the general revision of this subchapter by Pub. L. 100-713.

### § 1652. Contracts with, and grants to, urban Indian organizations

Under authority of section 13 of this title, the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within the urban centers in which such organizations are situated, of programs which meet the requirements set forth in this subchapter. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this subchapter in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this subchapter.

(Pub. L. 94-437, title V, § 502, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4820; amended Pub. L. 102-573, title V, § 501(a), Oct. 29, 1992, 106 Stat. 4567.)

### PRIOR PROVISIONS

A prior section 1652, Pub. L. 94-437, title V, § 502, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3177, related to contracts with urban and rural Indian organizations, prior to the general revision of this subchapter by Pub. L. 100-713.

### AMENDMENTS

1992—Pub. L. 102-573 substituted “Contracts with, and grants to, urban Indian organizations” for “Contracts with urban Indian organizations” in section catchline, and in text substituted “contracts with, or make grants to,” for “contracts with” and inserted “, or in any grant the Secretary makes to,” after “enters into with”.

### § 1653. Contracts and grants for provision of health care and referral services

#### (a) Requirements

Under authority of section 13 of this title, the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian

organizations for the provision of health care and referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

- (1) estimate the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;
- (2) estimate the current health status of urban Indians residing in such urban center;
- (3) estimate the current health care needs of urban Indians residing in such urban center;
- (4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;
- (5) determine the use of public and private health services resources by the urban Indians residing in such urban center;
- (6) assist such health services resources in providing services to urban Indians;
- (7) assist urban Indians in becoming familiar with and utilizing such health services resources;
- (8) provide basic health education, including health promotion and disease prevention education, to urban Indians;
- (9) establish and implement training programs to accomplish the referral and education tasks set forth in paragraphs (6) through (8) of this subsection;
- (10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;
- (11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and
- (12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

**(b) Criteria for selection of organizations to enter into contracts or receive grants**

The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

- (1) the extent of unmet health care needs of urban Indians in the urban center involved;
- (2) the size of the urban Indian population in the urban center involved;
- (3) the accessibility to, and utilization of, health care services (other than services provided under this subchapter) by urban Indians in the urban center involved;
- (4) the extent, if any, to which the activities set forth in subsection (a) of this section would duplicate—
  - (A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this subchapter; or
  - (B) any project funded under this subchapter;
- (5) the capability of an urban Indian organization to perform the activities set forth in

subsection (a) of this section and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this subchapter;

(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) of this section in an urban center; and

(8) the extent of existing or likely future participation in the activities set forth in subsection (a) of this section by appropriate health and health-related Federal, State, local, and other agencies.

**(c) Grants for health promotion and disease prevention services**

The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) of this section.

**(d) Grants for immunization services**

(1) The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) of this section.

(2) In making any grant to carry out this subsection, the Secretary shall take into consideration—

- (A) the size of the urban Indian population to be served;
- (B) the immunization levels of the urban Indian population, particularly the immunization levels of infants, children, and the elderly;
- (C) the utilization by the urban Indians of alternative resources from State and local governments for no-cost or low-cost immunization services to the general population; and
- (D) the capability of the urban Indian organization to carry out services pursuant to this subsection.

(3) For purposes of this subsection, the term “immunization services” means services to provide without charge immunizations against vaccine-preventable diseases.

**(e) Grants for mental health services**

(1) The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) of this section.

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the

barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

(3) Grants may be made under this subsection—

(A) to prepare assessments required under paragraph (2);

(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct mental health services, to educate urban Indians about mental health issues and services, and effect coordination with existing mental health providers in order to improve services to urban Indians;

(C) to provide outpatient mental health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

(D) to develop innovative mental health service delivery models which incorporate Indian cultural support systems and resources.

**(f) Grants for prevention and treatment of child abuse**

(1) The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) of this section to prevent and treat child abuse (including sexual abuse) among urban Indians.

(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

(3) Grants may be made under this subsection—

(A) to prepare assessments required under paragraph (2);

(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

(4) In making grants to carry out this subsection, the Secretary shall take into consideration—

(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

(C) the assessment required under paragraph (2).

(Pub. L. 94-437, title V, § 503, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4821; amended Pub. L. 101-630, title V, § 505, Nov. 28, 1990, 104 Stat. 4564; Pub. L. 102-573, title V, §§ 501(b)(1), 505(b)(1), Oct. 29, 1992, 106 Stat. 4567, 4570.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978, referred to in subsec. (f)(4)(A), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

PRIOR PROVISIONS

A prior section 1653, Pub. L. 94-437, title V, § 503, Sept. 30, 1976, 90 Stat. 1410; Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3177, related to contract eligibility, prior to the general revision of this subchapter by Pub. L. 100-713.

AMENDMENTS

1992—Pub. L. 102-573, § 501(b)(1)(G), inserted “and grants” in section catchline.

Subsec. (a). Pub. L. 102-573, § 501(b)(1)(A), inserted “, or make grants to,” after “contracts with” and “or grant” after “such contract”.

Subsec. (b). Pub. L. 102-573, § 501(b)(1)(B), inserted “or receive grants” after “enter into contracts” in introductory provisions and “or to meet the requirements for receiving a grant” after “Secretary” in par. (5).

Subsec. (c). Pub. L. 102-573, § 505(b)(1)(A), struck out par. (1) designation before “The Secretary, acting” and struck out par. (2) which authorized appropriation of \$1,000,000 for fiscal year 1992 to carry out this subsec.

Subsec. (c)(1). Pub. L. 102-573, § 501(b)(1)(C), inserted before period at end “or receiving grants under subsection (a) of this section”.

Subsec. (d)(1). Pub. L. 102-573, § 501(b)(1)(D), inserted before period at end “or receiving grants under subsection (a) of this section”.

Subsec. (d)(4). Pub. L. 102-573, § 505(b)(1)(B), struck out par. (4) which authorized appropriation of \$1,000,000 for fiscal year 1992 to carry out this subsec.

Subsec. (e)(1). Pub. L. 102-573, § 501(b)(1)(E), inserted before period at end “or receiving grants under subsection (a) of this section”.

Subsec. (e)(4). Pub. L. 102-573, § 505(b)(1)(C), struck out par. (4) which authorized appropriations of \$500,000 for fiscal year 1991 and \$2,000,000 for fiscal year 1992 to carry out this subsec.

Subsec. (f)(1). Pub. L. 102-573, § 501(b)(1)(F), inserted “or receiving grants under subsection (a) of this section” after “pursuant to this section”.

Subsec. (f)(5). Pub. L. 102-573, § 505(b)(1)(D), struck out par. (5) which authorized appropriations of \$500,000 for fiscal year 1991 and \$2,000,000 for fiscal year 1992 to carry out this subsec.

1990—Subsecs. (c) to (f). Pub. L. 101-630 added subsecs. (c) to (f).

FACILITIES ASSESSMENT

Section 506(a), (b) of Pub. L. 101-630 provided that:

“(a) SURVEY.—The Secretary shall conduct a survey of all facilities used by contractors under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.] and shall submit a report to the Congress on such survey not later than one year after the date of enactment of this Act [Nov. 28, 1990]. The report shall, at a minimum, contain the following information for each location:



“(1) The extent to which the facility meets safety and building codes and, if direct care is provided, the extent of compliance with Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards.

“(2) The extent to which improvements, expansion, or relocation is necessary to meet program requirements, provide adequate services, or achieve building code compliance.

“(3) Any lease restriction that would hamper accomplishment of needed improvement, expansion, or relocation.

“(4) The term of the lease, if appropriate, the age of the structure, and the structure's life expectancy with and without improvement.

“(5) An assessment of the deficiencies of the facility.

“(b) REPORT.—The report shall contain general recommendations for addressing the deficiencies of facilities in which programs funded under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.] are located and shall propose specific policies for accomplishing those recommendations.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1603, 1654, 1655, 1657 of this title.

### § 1654. Contracts and grants for determination of unmet health care needs

#### (a) Authority

Under authority of section 13 of this title, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 1653 of this title. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) of this section in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 1653 of this title with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

#### (b) Requirements

Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

(1) the urban Indian organization successfully undertake to—

(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

(B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (8) of section 1653(b) of this title; and

(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.

#### (c) Renewal

The Secretary may not renew any contract entered into, or grant made, under this section.

(Pub. L. 94-437, title V, § 504, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4822; amended Pub. L. 102-573, title V, § 501(b)(2), Oct. 29, 1992, 106 Stat. 4567.)

#### PRIOR PROVISIONS

A prior section 1654, Pub. L. 94-437, title V, § 504, Sept. 30, 1976, 90 Stat. 1411; Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3178, related to other contract requirements, prior to the general revision of this subchapter by Pub. L. 100-713.

#### AMENDMENTS

1992—Pub. L. 102-573, § 501(b)(2)(D), inserted “and grants” in section catchline.

Subsec. (a). Pub. L. 102-573, § 501(b)(2)(A), added subsec. (a) and struck out former subsec. (a) which read as follows: “Under authority of section 13 of this title, the Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 1653 of this title. The purpose of a contract under this section shall be the determination of the matters described in subsection (b)(1) of this section in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 1653 of this title with the urban Indian organization with which the Secretary has entered into a contract under this section.”

Subsec. (b). Pub. L. 102-573, § 501(b)(2)(B), inserted “, or grant made,” after “contract entered into” in introductory provisions and substituted “, or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.” for “within one year after the date on which the Secretary and such organization enter into such contract.” in par. (2).

Subsec. (c). Pub. L. 102-573, § 501(b)(2)(C), inserted “, or grant made,” after “entered into”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1655 of this title.

### § 1655. Evaluations; renewals

#### (a) Contract compliance and performance

The Secretary, through the Service, shall develop procedures to evaluate compliance with grant requirements under this subchapter and compliance with, and performance of contracts entered into by urban Indian organizations under this subchapter. Such procedures shall include provisions for carrying out the requirements of this section.

#### (b) Annual onsite evaluation

The Secretary, through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract or received a grant under section 1653 of this title for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract or the terms of such grant.

#### (c) Noncompliance or unsatisfactory performance

If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract

under section 1653 of this title, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 1653 of this title with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

**(d) Contract and grant renewals**

In determining whether to renew a contract or grant with an urban Indian organization under section 1653 of this title which has completed performance of a contract or grant under section 1654 of this title, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 1657 of this title, and, in the case of a renewal of a contract or grant under section 1653 of this title, shall consider the results of the onsite evaluations conducted under subsection (b) of this section.

(Pub. L. 94-437, title V, § 505, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4822; amended Pub. L. 102-573, title V, § 501(b)(3), Oct. 29, 1992, 106 Stat. 4568.)

**PRIOR PROVISIONS**

A prior section 1655, Pub. L. 94-437, title V, § 505, Sept. 30, 1976, 90 Stat. 1412; Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3179, related to reports by urban Indian organizations and rural Indian organizations to Secretary, contents, audit of reports and records, prior to the general revision of this subchapter by Pub. L. 100-713.

**AMENDMENTS**

1992—Pub. L. 102-573, § 501(b)(3)(E), substituted “renewals” for “contract renewals” in section catchline.

Subsec. (a). Pub. L. 102-573, § 501(b)(3)(A), inserted “compliance with grant requirements under this subchapter and” before “compliance with, and”.

Subsec. (b). Pub. L. 102-573, § 501(b)(3)(B), inserted “or received a grant” after “entered into a contract” and “or the terms of such grant” before period at end.

Subsec. (c). Pub. L. 102-573, § 501(b)(3)(C), inserted “the requirements of a grant or complied with” after “has not complied with”, “or grant” after “such contract” wherever appearing, “or make a grant” after “enter into a contract”, and “or grant” after “whose contract”.

Subsec. (d). Pub. L. 102-573, § 501(b)(3)(D), inserted “or grant” after “a contract” wherever appearing.

**§ 1656. Other contract and grant requirements**

**(a) Federal regulations; exceptions**

Contracts with urban Indian organizations entered into pursuant to this subchapter shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of sections 270a to 270d-1 of title 40.

**(b) Payment**

Payments under any contracts or grants pursuant to this subchapter may be made in ad-

vance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this subchapter.

**(c) Revision or amendment**

Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this subchapter as necessary to carry out the purposes of this subchapter.

**(d) Existing Government facilities**

In connection with any contract or grant entered into pursuant to this subchapter, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract or grant, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

**(e) Uniform provision of services and assistance**

Contracts with, or grants to, urban Indian organizations and regulations adopted pursuant to this subchapter shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

**(f) Eligibility for health care or referral services**

Urban Indians, as defined in section 1603(f) of this title, shall be eligible for health care or referral services provided pursuant to this subchapter.

(Pub. L. 94-437, title V, § 506, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4823; amended Pub. L. 102-573, title V, § 501(b)(4), Oct. 29, 1992, 106 Stat. 4568.)

**PRIOR PROVISIONS**

A prior section 1656, Pub. L. 94-437, title V, § 506, Sept. 30, 1976, 90 Stat. 1412; Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3179, authorized appropriations, prior to the general revision of this subchapter by Pub. L. 100-713.

**AMENDMENTS**

1992—Pub. L. 102-573, § 501(b)(4)(D), inserted “and grant” in section catchline.

Subsec. (b). Pub. L. 102-573, § 501(b)(4)(A), inserted “or grants” after “any contracts”.

Subsec. (d). Pub. L. 102-573, § 501(b)(4)(B), inserted “or grant” after “contract” in two places.

Subsec. (e). Pub. L. 102-573, § 501(b)(4)(C), inserted “, or grants to,” after “Contracts with” and “or grants” after “such contracts”.

**§ 1657. Reports and records**

**(a) Quarterly reports**

For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this subchapter, such organization shall submit to the Secretary a quarterly report including—

(1) in the case of a contract or grant under section 1653 of this title, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

(2) information on activities conducted by the organization pursuant to the contract or grant;

- (3) an accounting of the amounts and purposes for which Federal funds were expended; and
- (4) such other information as the Secretary may request.

**(b) Audit by Secretary and Comptroller General**

The reports and records of the urban Indian organization with respect to a contract or grant under this subchapter shall be subject to audit by the Secretary and the Comptroller General of the United States.

**(c) Cost of annual private audit**

The Secretary shall allow as a cost of any contract or grant entered into under section 1653 of this title the cost of an annual private audit conducted by a certified public accountant.

**(d) Health status, services, and areas of unmet needs; child welfare**

(1) The Secretary, acting through the Service, shall submit a report to the Congress not later than March 31, 1992, evaluating—

- (A) the health status of urban Indians;
- (B) the services provided to Indians through this subchapter;
- (C) areas of unmet needs in urban areas served under this subchapter; and
- (D) areas of unmet needs in urban areas not served under this subchapter.

(2) In preparing the report under paragraph (1), the Secretary shall consult with urban Indian health providers and may contract with a national organization representing urban Indian health concerns to conduct any aspect of the report.

(3) The Secretary and the Secretary of the Interior shall—

- (A) assess the status of the welfare of urban Indian children, including the volume of child protection cases, the prevalence of child sexual abuse, and the extent of urban Indian coordination with tribal authorities with respect to child sexual abuse; and
- (B) submit a report on the assessment required under subparagraph (A), together with recommended legislation to improve Indian child protection in urban Indian populations, to the Congress no later than March 31, 1992.

(Pub. L. 94-437, title V, § 507, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4823; amended Pub. L. 101-630, title V, § 507, Nov. 28, 1990, 104 Stat. 4566; Pub. L. 102-573, title V, § 501(b)(5), Oct. 29, 1992, 106 Stat. 4568.)

**PRIOR PROVISIONS**

A prior section 1657, Pub. L. 94-437, title V, § 507, Sept. 30, 1976, 90 Stat. 1412; Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3179, related to review of program by Secretary and report to Congress, prior to the general revision of this subchapter by Pub. L. 100-713.

**AMENDMENTS**

1992—Subsec. (a). Pub. L. 102-573, § 501(b)(5)(A), inserted “, or a grant received,” after “entered into” in introductory provisions and “or grant” after “contract” in pars. (1) and (2).

Subsecs. (b), (c). Pub. L. 102-573, § 501(b)(5)(B), inserted “or grant” after “contract”.

1990—Subsec. (d). Pub. L. 101-630 added subsec. (d).

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1655 of this title.

**§ 1658. Limitation on contract authority**

The authority of the Secretary to enter into contracts under this subchapter shall be to the extent, and in an amount, provided for in appropriation Acts.

(Pub. L. 94-437, title V, § 508, as added Pub. L. 100-713, title V, § 501, Nov. 23, 1988, 102 Stat. 4824.)

**PRIOR PROVISIONS**

A prior section 1658, Pub. L. 94-437, title V, § 508, Sept. 30, 1976, 90 Stat. 1412, provided that not to exceed 1 per centum of the amounts authorized by section 1656 of this title be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations, prior to the general revision of this subchapter by Pub. L. 96-537, § 7, Dec. 17, 1980, 94 Stat. 3176.

**§ 1659. Facilities renovation**

The Secretary may make funds available to contractors or grant recipients under this subchapter for minor renovations to facilities, including leased facilities, to assist such contractors or grant recipients in meeting or maintaining the Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards.

(Pub. L. 94-437, title V, § 509, formerly § 409, as added Pub. L. 101-630, title V, § 506(c), Nov. 28, 1990, 104 Stat. 4566; renumbered § 509 and amended Pub. L. 102-573, title V, §§ 501(b)(6), 505(b)(2), title IX, § 902(5)(A), Oct. 29, 1992, 106 Stat. 4569, 4571, 4591.)

**AMENDMENTS**

1992—Pub. L. 102-573, § 902(5)(A), made technical amendment to section catchline.

Pub. L. 102-573, § 505(b)(2), struck out last sentence which authorized appropriation of \$1,000,000 for fiscal year 1992 to carry out this section.

Pub. L. 102-573, § 501(b)(6), inserted “or grant recipients” after “contractors” in two places.

**§ 1660. Urban Health Programs Branch**

**(a) Establishment**

There is hereby established within the Service a Branch of Urban Health Programs which shall be responsible for carrying out the provisions of this subchapter and for providing central oversight of the programs and services authorized under this subchapter.

**(b) Staff, services, and equipment**

The Secretary shall appoint such employees to work in the branch, including a program director, and shall provide such services and equipment, as may be necessary for it to carry out its responsibilities. The Secretary shall also analyze the need to provide at least one urban health program analyst for each area office of the Indian Health Service and shall submit his findings to the Congress as a part of the Department's fiscal year 1993 budget request.

(Pub. L. 94-437, title V, § 510, formerly § 511, as added Pub. L. 101-630, title V, § 508, Nov. 28, 1990, 104 Stat. 4567; renumbered § 510 and amended Pub. L. 102-573, title V, § 501(b)(7), title IX, § 902(5)(B), Oct. 29, 1992, 106 Stat. 4569, 4591.)

**AMENDMENTS**

1992—Pub. L. 102-573, § 902(5)(B), made technical amendment to section catchline.

Subsec. (a). Pub. L. 102-573, §501(b)(7), inserted “and for providing central oversight of the programs and services authorized under this subchapter” before period at end.

**§ 1660a. Grants for alcohol and substance abuse related services**

**(a) Grants**

The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this subchapter or under section 1621 of this title.

**(b) Goals of grant**

Each grant made pursuant to subsection (a) of this section shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

**(c) Criteria**

The Secretary shall establish criteria for the grants made under subsection (a) of this section, including criteria relating to the—

- (1) size of the urban Indian population;
- (2) accessibility to, and utilization of, other health resources available to such population;
- (3) duplication of existing Service or other Federal grants or contracts;
- (4) capability of the organization to adequately perform the activities required under the grant;
- (5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and
- (6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

**(d) Treatment of funds received by urban Indian organizations**

Any funds received by an urban Indian organization under this chapter for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c) of this section.

(Pub. L. 94-437, title V, §511, as added Pub. L. 102-573, title V, §502, Oct. 29, 1992, 106 Stat. 4569.)

**PRIOR PROVISIONS**

A prior section 511 of Pub. L. 94-437 was renumbered section 510 and is classified to section 1660 of this title.

**§ 1660b. Treatment of certain demonstration projects**

(a) Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project and the Tulsa Clinic demonstration project shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination Act [25 U.S.C. 450f et seq.] for the term of such projects. The Secretary shall provide assistance to such projects

in the development of resources and equipment and facility needs.

(b) The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 1671 of this title for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a) of this section.

(Pub. L. 94-437, title V, §512, as added Pub. L. 102-573, title V, §503, Oct. 29, 1992, 106 Stat. 4569.)

**REFERENCES IN TEXT**

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1671 of this title.

**§ 1660c. Urban NIAAA transferred programs**

**(a) Duty of Secretary**

The Secretary shall, within the Branch of Urban Health Programs of the Service, make grants or enter into contracts for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as “NIAAA”) and transferred to the Service.

**(b) Use of grants**

Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

**(c) Eligibility for grants**

Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

**(d) Combination of funds**

For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.

**(e) Evaluation and report to Congress**

The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every two years.

(Pub. L. 94-437, title V, §513, as added Pub. L. 102-573, title V, §504, Oct. 29, 1992, 106 Stat. 4570.)

**§ 1660d. Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94-437, title V, §514, as added Pub. L. 102-573, title V, §505(a), Oct. 29, 1992, 106 Stat. 4570.)

## SUBCHAPTER V—ORGANIZATIONAL IMPROVEMENTS

### CODIFICATION

This subchapter was in the original title VI of Pub. L. 94-437. Titles IV and V of Pub. L. 94-437 are classified to subchapters III-A and IV of this chapter, respectively.

### § 1661. Establishment of Indian Health Service as an agency of Public Health Service

#### (a) Establishment

In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be on and after November 23, 1988, provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.

#### (b) Agency status

The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

#### (c) Duties

The Secretary shall carry out through the Director of the Indian Health Service—

(1) all functions which were, on the day before November 23, 1988, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day;

(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including (but not limited to) programs under—

(A) this chapter;

(B) section 13 of this title;

(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and

(4) all scholarship and loan functions carried out under subchapter I of this chapter.

#### (d) Authority of Secretary

(1) The Secretary, acting through the Director of the Indian Health Service, shall have the authority—

(A) except to the extent provided in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5;

(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

(C) to manage, expend, and obligate all funds appropriated for the Service.

(2) Notwithstanding any other law, the provisions of section 472 of this title shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a) of this section.

(Pub. L. 94-437, title VI, § 601, as added Pub. L. 100-713, title VI, § 601(a), Nov. 23, 1988, 102 Stat. 4824; amended Pub. L. 102-573, title VI, §§ 601, 602(a)(1), (c), title IX, § 902(6), (7), Oct. 29, 1992, 106 Stat. 4571, 4592.)

### REFERENCES IN TEXT

Act of August 5, 1954, referred to in subsec. (c)(3)(C), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

Act of August 16, 1957, referred to in subsec. (c)(3)(D), is Pub. L. 85-151, Aug. 16, 1957, 71 Stat. 370, which is classified generally to subchapter II (§ 2005 et seq.) of chapter 22 of Title 42. For complete classification of this Act to the Code, see Tables.

The Indian Self-Determination Act, referred to in subsec. (c)(3)(E), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

### PRIOR PROVISIONS

A prior section 1661, Pub. L. 94-437, title VI, § 601, Sept. 30, 1976, 90 Stat. 1412, related to feasibility study and report to Congress, prior to the general revision of this subchapter by Pub. L. 100-713.

### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, § 602(c), inserted at end “Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.”

Pub. L. 102-573, § 602(a)(1), substituted “President, by and with the advice and consent of the Senate” for “Secretary” in second sentence.

Subsec. (c)(3)(D). Pub. L. 102-573, § 902(6), substituted “(42 U.S.C. 2005 et seq.)” for “(25 U.S.C. 2005, et seq.)”.

Subsec. (c)(4). Pub. L. 102-573, § 601, added par. (4).

Subsec. (d)(1)(C). Pub. L. 102-573, § 902(7), substituted “appropriated” for “appropriate”.

### EFFECTIVE DATE OF 1992 AMENDMENT

Section 602(a)(2) of Pub. L. 102-573 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect January 1, 1993.”

### EFFECTIVE DATE

Section 601(c) of Pub. L. 100-713 provided that:

“(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act [this section] added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section [Nov. 23, 1988].

“(2) Notwithstanding subsections (b) [set out below] and (c)(1), any action which carries out such section 601

that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.”

#### INTERIM APPOINTMENT

Section 602(b) of Pub. L. 102-573 provided that: “The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) [25 U.S.C. 1661(a)] (as amended by subsection (a) of this section).”

#### TRANSFER OF PERSONNEL, RECORDS, EQUIPMENT, ETC., TO INDIAN HEALTH SERVICE

Section 601(b) of Pub. L. 100-713 provided that: “All personnel, records, equipment, facilities, and interests in property that are administered by the Indian Health Service on the day before the date on which the amendments made by this section take effect [see Effective Date note above] shall be transferred to the Indian Health Service established by the amendment made by subsection (a) of this section [enacting this section and section 1662 of this title]. All transfers must be accomplished within 9 months of the date of enactment of this section [Nov. 23, 1988]. The Secretary is authorized to waive the Indian preference laws on a case-by-case basis for temporary transfers involved in implementing this section during such 9-month period.”

### § 1662. Automated management information system

#### (a) Establishment

(1) The Secretary shall establish an automated management information system for the Service.

(2) The information system established under paragraph (1) shall include—

- (A) a financial management system,
- (B) a patient care information system for each area served by the Service,
- (C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and
- (D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

#### (b) Provision to Indian tribes and organizations; reimbursement

(1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] automated management information systems which—

- (A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service, and
- (B) meet the management information needs of the Service.

(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.

(3) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organi-

zations providing health services in California by no later than September 30, 1990.

#### (c) Access to records

Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

(Pub. L. 94-437, title VI, §602, as added Pub. L. 100-713, title VI, §601(a), Nov. 23, 1988, 102 Stat. 4825; amended Pub. L. 102-573, title IX, §901(3), Oct. 29, 1992, 106 Stat. 4591.)

#### REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(1), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102-573 struck out par. (3) which directed Secretary to submit report to Congress no later than Sept. 30, 1989.

### § 1663. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94-437, title VI, §603, as added Pub. L. 102-573, title VI, §603, Oct. 29, 1992, 106 Stat. 4571.)

#### SUBCHAPTER V-A—SUBSTANCE ABUSE PROGRAMS

##### CODIFICATION

This subchapter was in the original title VII of Pub. L. 94-437, as added by Pub. L. 102-573. Former title VII was renumbered VIII by Pub. L. 102-573 and is classified to subchapter VI of this chapter. Titles IV, V, and VI of Pub. L. 102-437 are classified to subchapters III-A, IV, and V of this chapter, respectively.

### § 1665. Indian Health Service responsibilities

The Memorandum of Agreement entered into pursuant to section 2411 of this title shall include specific provisions pursuant to which the Service shall assume responsibility for—

- (1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;
- (2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and
- (3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

(Pub. L. 94-437, title VII, §701, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4572.)

**§ 1665a. Indian Health Service program****(a) Comprehensive prevention and treatment program**

(1) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

- (A) prevention, through educational intervention, in Indian communities;
- (B) acute detoxification and treatment;
- (C) community-based rehabilitation;
- (D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and
- (E) residential treatment programs for pregnant and post partum women and their children.

(2) The target population of such program shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

**(b) Contract health services**

(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a) of this section.

(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to develop criteria for the certification of alcohol and substance abuse service providers and accreditation of service facilities which meet minimum standards for such services and facilities as may be determined pursuant to section 2411(a)(3) of this title.

**(c) Grants for model program**

(1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux Tribe to develop a community-based demonstration project to reduce drug and alcohol abuse on the Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.

(2) Funds shall be used by the Tribe to—

- (A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;
- (B) develop prevention and intervention models for Indian families;
- (C) conduct community education on alcohol and substance abuse; and
- (D) coordinate with existing Federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.

(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 1671 of this title for fiscal year 1995 an evaluation of the demonstration project established under paragraph (1).

(Pub. L. 94-437, title VII, §702, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4573.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

**§ 1665b. Indian women treatment programs****(a) Grants**

The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive alcohol and substance abuse program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

**(b) Use of grants**

Grants made pursuant to this section may be used to—

- (1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;
- (2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and
- (3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

**(c) Criteria for review and approval of grant applications**

The Secretary shall establish criteria for the review and approval of applications for grants under this section.

**(d) Authorization of appropriations**

(1) There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(2) Twenty percent of the funds appropriated pursuant to this subsection shall be used to make grants to urban Indian organizations funded under subchapter IV of this chapter.

(Pub. L. 94-437, title VII, §703, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4573.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1665m of this title.

**§ 1665c. Indian Health Service youth program****(a) Detoxification and rehabilitation**

The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

**(b) Treatment centers or facilities**

(1) The Secretary shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an

area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to section 13 of this title.

(3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

(4)(A) Notwithstanding any other provision of this subchapter, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 450b(l) of this title.

(B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

**(c) Federally owned structures**

(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

**(d) Rehabilitation and aftercare services**

(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-

image, positive problem-solving skills, and non-alcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

**(e) Inclusion of family in youth treatment program**

In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) of this section shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

**(f) Multidrug abuse study**

(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after October 29, 1992.

(Pub. L. 94-437, title VII, §704, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4574.)

**§ 1665d. Training and community education**

**(a) Community education**

The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

**(b) Training**

The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 2433 of this title.

**(c) Community-based training models**

In carrying out the education and training programs required by this section, the Sec-



retary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

- (1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;
- (2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and
- (3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

(Pub. L. 94-437, title VII, §705, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4576.)

**§ 1665e. Gallup alcohol and substance abuse treatment center**

**(a) Grants for residential treatment**

The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.

**(b) Purposes of grants**

Grants made pursuant to this section shall (to the extent appropriations are made available) be used to—

- (1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;
- (2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;
- (3) provide at least 12 beds for an adolescent sheltered program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;
- (4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and
- (5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

**(c) Contract for residential treatment**

The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and

drug treatment as authorized in subsection (b) of this section.

**(d) Authorization of appropriations**

There are authorized to be appropriated, for each of fiscal years 1996 through 2000, such sums as may be necessary to carry out subsection (b) of this section.

(Pub. L. 94-437, title VII, §706, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4576; amended Pub. L. 104-313, §2(e), Oct. 19, 1996, 110 Stat. 3822.)

**AMENDMENTS**

1996—Subsec. (d). Pub. L. 104-313 amended heading and text of subsec. (d) generally, extending appropriation authorization for programs under subsection (b) of this section through fiscal year 2000.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1665m of this title.

**§ 1665f. Reports**

**(a) Compilation of data**

The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

**(b) Referral of data**

The data compiled under subsection (a) of this section shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 2412 of this title.

**(c) Comprehensive report**

Each service unit director shall be responsible for assembling the data compiled under this section and section 2434 of this title into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

(Pub. L. 94-437, title VII, §707, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4577.)

**REFERENCES IN TEXT**

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**§ 1665g. Fetal alcohol syndrome and fetal alcohol effect grants**

**(a) Award; use; review criteria**

(1) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal

alcohol syndrome and fetal alcohol effect programs as provided in this section for the purposes of meeting the health status objectives specified in section 1602(b) of this title.

(2) Grants made pursuant to this section shall be used to—

(A) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

(B) identify and provide alcohol and substance abuse treatment to high-risk women;

(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

(D) develop and implement counseling and support programs in schools for FAS and FAE affected children;

(E) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement;

(F) develop, print, and disseminate education and prevention materials on FAS and FAE; and

(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

(3) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

**(b) Plan; study; national clearinghouse**

The Secretary, acting through the Service, shall—

(1) develop an annual plan for the prevention, intervention, treatment, and aftercare for those affected by FAS and FAE in Indian communities;

(2) conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities, of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE; and

(3) establish a national clearinghouse for prevention and educational materials and other information on FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian tribe or urban Indian organization.

**(c) Task force**

The Secretary shall establish a task force to be known as the FAS/FAE Task Force to advise the Secretary in carrying out subsection (b) of this section. Such task force shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts.

**(d) Cooperative projects; research projects**

The Secretary, acting through the Substance Abuse and Mental Health Services Administra-

tion, shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for Indians and urban Indians affected by FAS or FAE.

**(e) Report**

(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the status of FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section 1602(d) of this title with respect to the health status objective specified in section 1602(b)(27) of this title, the following:

(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

(B) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

(C) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

(D) The level of support received from the entities specified in subsection (c) of this section in the area of FAS and FAE.

(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

(2) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

**(f) Authorization of appropriations**

(1) There are authorized to be appropriated to carry out this section \$22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(2) Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under subchapter IV of this chapter.

(Pub. L. 94-437, title VII, § 708, as added Pub. L. 102-573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4578.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 1665m, 1671 of this title.

**§ 1665h. Pueblo substance abuse treatment project for San Juan Pueblo, New Mexico**

The Secretary, acting through the Service, shall continue to make grants, through fiscal

year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

(Pub. L. 94-437, title VII, §709, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4579.)

#### **§ 1665i. Thunder Child Treatment Center**

(a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of Indians.

(b) For the purposes of carrying out subsection (a) of this section, there are authorized to be appropriated \$2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) of this section shall be used for administrative purposes.

(Pub. L. 94-437, title VII, §710, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4580.)

#### **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1665m of this title.

#### **§ 1665j. Substance abuse counselor education demonstration project**

##### **(a) Contracts and grants**

The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

##### **(b) Use of funds**

Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

##### **(c) Effective period of contract or grant; renewal**

A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one year period upon the approval of the Secretary.

##### **(d) Criteria for review and approval of applications**

Not later than 180 days after October 29, 1992, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications

for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

##### **(e) Assistance to recipients**

The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

##### **(f) Report**

The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 1671 of this title for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

##### **(g) Definitions**

For the purposes of this section, the following definitions apply:

(1) The term “educational curriculum” means one or more of the following:

- (A) Classroom education.
- (B) Clinical work experience.
- (C) Continuing education workshops.

(2) The term “eligible community college” means an accredited community college that—

- (i) is located on or near an Indian reservation;
- (ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and
- (iii) has a student enrollment of not less than 10 percent Indian.

(3) The term “tribally controlled community college” has the meaning given such term in section 1801(a)(4) of this title.

(4) The term “tribally controlled postsecondary vocational institution” has the meaning given such term in section 2397h(2) of title 20.

##### **(h) Authorization of appropriations**

There are authorized to be appropriated for each of the fiscal years 1996 through 2000,<sup>1</sup> such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended.

(Pub. L. 94-437, title VII, §711, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4580; amended Pub. L. 104-313, §2(f), Oct. 19, 1996, 110 Stat. 3822.)

#### **AMENDMENTS**

1996—Subsec. (h). Pub. L. 104-313 substituted “1996 through 2000” for “1993, 1994, 1995, 1996, and 1997”.

#### **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 1665m, 1671 of this title.

#### **§ 1665k. Gila River alcohol and substance abuse treatment facility**

##### **(a) Regional center**

The Secretary, acting through the Service, shall establish a regional youth alcohol and sub-

<sup>1</sup> So in original. The comma probably should not appear.

stance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community.

**(b) Name of regional center**

The center established pursuant to this section shall be known as the “Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center”.

**(c) Unit of regional center**

The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada.

(Pub. L. 94-437, title VII, §712, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4581.)

**§ 1665l. Alaska Native drug and alcohol abuse demonstration project**

(a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary’s, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 1671 of this title for fiscal year 1995 an evaluation of the demonstration project established under subsection (a) of this section.

(Pub. L. 94-437, title VII, §713, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4581.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

**§ 1665m. Authorization of appropriations**

Except as provided in sections 1665b, 1665e, 1665g, 1665i, and 1665j of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out the provisions of this subchapter.

(Pub. L. 94-437, title VII, §714, as added Pub. L. 102-573, title VII, §702(a), Oct. 29, 1992, 106 Stat. 4581.)

SUBCHAPTER VI—MISCELLANEOUS

CODIFICATION

This subchapter was in the original title VIII, formerly VII, of Pub. L. 94-437, as renumbered by Pub. L.

102-573. Titles IV, V, VI, and VII of Pub. L. 94-437 are classified to subchapters III-A, IV, V, and V-A of this chapter, respectively.

**§ 1671. Reports**

The President shall, at the time the budget is submitted under section 1105 of title 31, for each fiscal year transmit to the Congress a report containing—

(1) a report on the progress made in meeting the objectives of this chapter, including a review of programs established or assisted pursuant to this chapter and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this chapter and any steps that the Secretary may have taken to consult with Indian tribes to address such impact;

(3) a report on the use of health services by Indians—

(A) on a national and area or other relevant geographical basis;

(B) by gender and age;

(C) by source of payment and type of service; and

(D) comparing such rates of use with rates of use among comparable non-Indian populations.<sup>1</sup>

(4) a separate statement which specifies the amount of funds requested to carry out the provisions of section 1621 of this title;

(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 1680d of this title, relating to infant and maternal mortality and fetal alcohol syndrome;

(6) the reports required by sections 1602(d), 1616a(n), 1621b(b), 1621h(j), 1631(c), 1632(g), 1634(a)(3), 1643, 1665g(e), and 1680g(a), and 1680(f) of this title;

(7) for fiscal year 1995, the report required by sections 1665a(c)(3) and 1665(b) of this title;

(8) for fiscal year 1997, the interim report required by section 1637(h)(1) of this title; and

(9) for fiscal year 1999, the reports required by sections 1637(h)(2), 1660b(b), 1665j(f), and 1680k(g) of this title.

(Pub. L. 94-437, title VIII, §801, formerly title VII, §701, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, §801, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §801, Oct. 29, 1992, 106 Stat. 4572, 4584.)

AMENDMENTS

1992—Pub. L. 102-573, §801, amended section generally. Prior to amendment, section read as follows: “The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of

<sup>1</sup> So in original. The period probably should be a semicolon.

this chapter. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this chapter and make recommendations to the Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this chapter which he deems appropriate. In the event the Congress enacts legislation authorizing appropriations for programs under this chapter for fiscal years 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this chapter and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population."

REFERENCES TO SECTIONS 701 TO 720 OF PUBLIC LAW 94-437

Section 701(d) of Pub. L. 102-573 provided that: "Any reference in a provision of law other than the Indian Health Care Improvement Act [25 U.S.C. 1601 et seq.] to sections redesignated by subsection (b) [renumbering sections 701 to 720 of Pub. L. 94-437 as sections 801 to 820 of Pub. L. 94-437, which are classified to sections 1671 to 1680j of this title] shall be deemed to refer to the section as so redesignated."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1602, 1616a, 1621b, 1621h, 1631, 1632, 1634, 1637, 1643, 1660b, 1665a, 1665g, 1665j, 1665l, 1680g, 1680k, 1680l of this title; title 42 section 1395qq.

## § 1672. Regulations

Prior to any revision of or amendment to rules or regulations promulgated pursuant to this chapter, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

(Pub. L. 94-437, title VIII, § 802, formerly title VII, § 702, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, § 802, and amended Pub. L. 102-573, title VII, § 701(a), (b), title VIII, § 802, Oct. 29, 1992, 106 Stat. 4572, 4585.)

AMENDMENTS

1992—Pub. L. 102-573, § 802, amended section generally, substituting present provisions for former provisions relating in subsec. (a) to consideration, formulation, proposal, and promulgation of regulations and in subsec. (b) to revision and amendment of regulations.

## § 1673. Repealed. Pub. L. 102-573, title IX, § 901(4), Oct. 29, 1992, 106 Stat. 4591

Section, Pub. L. 94-437, title VIII, § 803, formerly title VII, § 703, Sept. 30, 1976, 90 Stat. 1413; renumbered title VIII, § 803, Pub. L. 102-573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572, related to submission by Secretary to Congress of plan to implement provisions of this chapter.

## § 1674. Leases with Indian tribes

(a) Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this chapter, to enter into leases with Indian tribes for periods not in excess of

twenty years. Property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

- (1) title to;
- (2) a leasehold interest in; or
- (3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.

(Pub. L. 94-437, title VIII, § 804, formerly title VII, § 704, Sept. 30, 1976, 90 Stat. 1414; Pub. L. 96-537, § 8(a), Dec. 17, 1980, 94 Stat. 3179; Pub. L. 100-713, title VII, § 701, Nov. 23, 1988, 102 Stat. 4826; renumbered title VIII, § 804, Pub. L. 102-573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

AMENDMENTS

1988—Pub. L. 100-713 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96-537 inserted provision that property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

## § 1675. Availability of funds

The funds appropriated pursuant to this chapter shall remain available until expended.

(Pub. L. 94-437, title VIII, § 805, formerly title VII, § 705, Sept. 30, 1976, 90 Stat. 1414; renumbered title VIII, § 805, Pub. L. 102-573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

## § 1676. Limitation on use of funds appropriated to Indian Health Service

Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.

(Pub. L. 94-437, title VIII, § 806, formerly title VII, § 706, as added Pub. L. 96-537, § 8(b), Dec. 17, 1980, 94 Stat. 3179; amended Pub. L. 100-713, title VII, § 718, Nov. 23, 1988, 102 Stat. 4837; renumbered title VIII, § 806, Pub. L. 102-573, title VII, § 701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

AMENDMENTS

1988—Pub. L. 100-713 inserted section catchline and amended text generally. Prior to amendment, text read as follows: "Within one year from December 17, 1980, the Secretary shall submit to the Congress a resource allocation plan. Such plan shall explain the future allocation of services and funds among the service popu-

lation of the Service and shall provide a schedule for reducing deficiencies in resources of tribes and non-tribal specific entities.”

#### **§ 1677. Nuclear resource development health hazards**

##### **(a) Study**

The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and organizations, a study of the health hazards to Indian miners and Indians on or near Indian reservations and in Indian communities as a result of nuclear resource development. Such study shall include—

- (1) an evaluation of the nature and extent of nuclear resource development related health problems currently exhibited among Indians and the causes of such health problems;
- (2) an analysis of the potential effect of ongoing and future nuclear resource development on or near Indian reservations and communities;
- (3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear powerplant operation and construction, and nuclear waste disposal;
- (4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the five years prior to December 17, 1980, that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and
- (5) the efforts that have been made by Federal and State agencies and mining and milling companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such nuclear resource development.

##### **(b) Health care plan; development**

Upon completion of such study the Secretary and the Service shall take into account the results of such study and develop a health care plan to address the health problems studied under subsection (a) of this section. The plan shall include—

- (1) methods for diagnosing and treating Indians currently exhibiting such health problems;
- (2) preventive care for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other nuclear development activities that have had or could have a serious impact upon the health of such individuals; and
- (3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear development activities, may experience health problems.

##### **(c) Reports to Congress**

The Secretary and the Service shall submit to Congress the study prepared under subsection (a) of this section no later than the date eighteen months after December 17, 1980. The health care plan prepared under subsection (b) of this

section shall be submitted in a report no later than the date one year after the date that the study prepared under subsection (a) of this section is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

##### **(d) Intergovernmental Task Force; establishment and functions**

(1) There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees): the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the United States Bureau of Mines, the Assistant Secretary for Occupational Safety and Health, and the Secretary of the Interior.

(2) The Task Force shall identify existing and potential operations related to nuclear resource development that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community and enter into activities to correct existing health hazards and insure that current and future health problems resulting from nuclear resource development activities are minimized or reduced.

(3) The Secretary shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

##### **(e) Medical care**

In the case of any Indian who—

- (1) as a result of employment in or near a uranium mine or mill, suffers from a work related illness or condition;
- (2) is eligible to receive diagnosis and treatment services from a Service facility; and
- (3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator from such operator. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

(Pub. L. 94-437, title VIII, §807, formerly title VII, §707, as added Pub. L. 96-537, §8(b), Dec. 17, 1980, 94 Stat. 3179; amended Pub. L. 102-285, §10(b), May 18, 1992, 106 Stat. 172; renumbered title VIII, §807, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §813(b), Oct. 29, 1992, 106 Stat. 4572, 4590.)

##### **AMENDMENTS**

1992—Subsec. (f). Pub. L. 102-573, §813(b), struck out subsec. (f) which authorized appropriation of \$300,000 to carry out the study as provided in subsec. (a), such amount to be expended by the date eighteen months after Dec. 17, 1980.

##### **CHANGE OF NAME**

“United States Bureau of Mines” substituted for “Bureau of Mines” in subsec. (d)(1) pursuant to section

10(b) of Pub. L. 102-285, set out as a note under section 1 of Title 30, Mineral Lands and Mining.

NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS;  
STUDY AND REPORT

Pub. L. 100-713, title VII, §717, Nov. 23, 1988, 102 Stat. 4837, provided that:

“(a) The Secretary of Health and Human Services (acting through the Indian Health Service), the Secretary of the Interior (acting through the Bureau of Indian Affairs), and the Secretary of Energy shall jointly conduct a study for the purpose of determining—

“(1) the number of active nuclear resource development sites on Indian lands in the United States;

“(2) the Federal agencies that carry out Federal responsibilities with respect to each such site;

“(3) the health hazards that exist as a result of such sites;

“(4) the remedial actions which have been undertaken with respect to such health hazards;

“(5) remedial actions that are needed with respect to such health hazards; and

“(6) the amount of funds that would be necessary each year to implement and maintain such needed remedial actions and the date by which the remedial actions would be implemented if sufficient funds were to provide for the remedial actions.

“(b) By no later than the date that is 2 years after the date of enactment of this Act [Nov. 23, 1988], a report shall be submitted to the Congress describing the findings and conclusions made as a result of carrying out the study required in subsection (a).”

**§ 1678. Arizona as a contract health service delivery area**

**(a) Designation**

For the fiscal years beginning with the fiscal year ending September 30, 1982, and ending with the fiscal year ending September 30, 2000, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian tribes of Arizona.

**(b) Curtailment of health services prohibited**

The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a) of this section.

(Pub. L. 94-437, title VIII, §808, formerly title VII, §708, as added Pub. L. 96-537, §8(b), Dec. 17, 1980, 94 Stat. 3181; amended Pub. L. 100-713, title VII, §702, Nov. 23, 1988, 102 Stat. 4827; renumbered title VIII, §808, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §803, Oct. 29, 1992, 106 Stat. 4572, 4585.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, §803, substituted “2000” for “1991”.

1988—Subsec. (a). Pub. L. 100-713, §702(a), substituted “1991” for “1984” and “members of federally recognized Indian tribes of Arizona” for “Indians in such State”.

Subsec. (c). Pub. L. 100-713, §702(b), struck out subsec. (c) which authorized appropriations for fiscal years 1982 to 1984.

**§ 1679. Eligibility of California Indians**

**(a) Report to Congress**

(1) In order to provide the Congress with sufficient data to determine which Indians in the

State of California should be eligible for health services provided by the Service, the Secretary shall, by no later than the date that is 3 years after November 23, 1988, prepare and submit to the Congress a report which sets forth—

(A) a determination by the Secretary of the number of Indians described in subsection (b)(2) of this section, and the number of Indians described in subsection (b)(3) of this section, who are not members of an Indian tribe recognized by the Federal Government,

(B) the geographic location of such Indians,

(C) the Indian tribes of which such Indians are members,

(D) an assessment of the current health status, and health care needs, of such Indians, and

(E) an assessment of the actual availability and accessibility of alternative resources for the health care of such Indians that such Indians would have to rely on if the Service did not provide for the health care of such Indians.

(2) The report required under paragraph (1) shall be prepared by the Secretary—

(A) in consultation with the Secretary of the Interior, and

(B) with the assistance of the tribal health programs providing services to the Indians described in paragraph (2) or (3) of subsection (b) of this section who are not members of any Indian tribe recognized by the Federal Government.

**(b) Eligible Indians**

Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

(1) Any member of a federally recognized Indian tribe.

(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

(A) is living in California,

(B) is a member of the Indian community served by a local program of the Service, and

(C) is regarded as an Indian by the community in which such descendant lives.

(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

**(c) Scope of eligibility**

Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

(Pub. L. 94-437, title VIII, §809, formerly title VII, §709, as added Pub. L. 96-537, §8(b), Dec. 17, 1980, 94 Stat. 3181; amended Pub. L. 100-713, title VII, §703, Nov. 23, 1988, 102 Stat. 4827; renumbered title VIII, §809, Pub. L. 102-573, title VII, §701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

## REFERENCES IN TEXT

Act of August 18, 1958, referred to in subsec. (b)(4), is Pub. L. 85-671, Aug. 18, 1958, 72 Stat. 619, which was not classified to the Code.

## AMENDMENTS

1988—Pub. L. 100-713 inserted section catchline and amended text generally. Prior to amendment, text read as follows: “Indians in the State of California who are members or descendants of members of former federally recognized tribes of the State of California shall be eligible for services from the Service in the fiscal years beginning with the fiscal year ending September 30, 1982, and ending with the fiscal year ending September 30, 1984.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621j of this title.

**§ 1680. California as a contract health service delivery area**

The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.

(Pub. L. 94-437, title VIII, §810, formerly title VII, §710, as added Pub. L. 96-537, §8(b), Dec. 17, 1980, 94 Stat. 3181; amended Pub. L. 100-713, title VII, §704, Nov. 23, 1988, 102 Stat. 4828; renumbered title VIII, §810, Pub. L. 102-573, title VII, §701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

## AMENDMENTS

1988—Pub. L. 100-713 inserted section catchline and amended text generally, substituting provisions designating parts of California as a contract health service delivery area for former provisions which authorized a demonstration project for lifting personnel ceilings for the Indian Health Service.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1621j of this title.

**§ 1680a. Contract health facilities**

The Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Service entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.]—

- (1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,
- (2) for employee training,
- (3) for cost-of-living increases for employees, and
- (4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Service.

(Pub. L. 94-437, title VIII, §811, formerly title VII, §711, as added Pub. L. 100-713, title VII, §705, Nov. 23, 1988, 102 Stat. 4828; renumbered title

VIII, §811, Pub. L. 102-573, title VII, §701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

## REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**§ 1680b. National Health Service Corps**

The Secretary of Health and Human Services shall not—

- (1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], or

- (2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.

(Pub. L. 94-437, title VIII, §812, formerly title VII, §712, as added Pub. L. 100-713, title VII, §706, Nov. 23, 1988, 102 Stat. 4828; renumbered title VIII, §812, Pub. L. 102-573, title VII, §701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

## REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in par. (1), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**§ 1680c. Health services for ineligible persons**

**(a) Individuals not otherwise eligible**

- (1) Any individual who—

- (A) has not attained 19 years of age,
- (B) is the natural or adopted child, step-child, foster-child, legal ward, or orphan of an eligible Indian, and
- (C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

- (2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses are made eligible, as a class, by an appropriate resolution



of the governing body of the Indian tribe of the eligible Indian. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

**(b) Health facilities providing health service**

(1)(A) The Secretary is authorized to provide health services under this subsection through health facilities operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals, and

(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians, and

(II) there is no reasonable alternative health facility or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

(B) In the case of health facilities operated under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], the governing body of the Indian tribe or tribal organization providing health services under such contract is authorized to determine whether health services should be provided under such contract to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

(2)(A) Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880(c) of the Social Security Act [42 U.S.C. 1395qq(c)], section 1642(a) of this title, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.], shall be credited to the account of the facility providing the service and shall be used solely for the provision of health services within that facility. Amounts collected under this subsection shall be available for expenditure within such facility for not to exceed one fiscal year after the fiscal year in which collected.

(B) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has

been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

(3)(A) In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

(B) In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

**(c) Purposes served in providing health services to otherwise ineligible individuals**

The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

(1) achieve stability in a medical emergency,

(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard,

(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or

(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

**(d) Extension of hospital privileges to non-Service health care practitioners**

Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b) of this section. Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28 (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

**(e) "Eligible Indian" defined**

For purposes of this section, the term "eligible Indian" means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

(Pub. L. 94-437, title VIII, §813, formerly title VII, §713, as added Pub. L. 100-713, title VII, §707(a), Nov. 23, 1988, 102 Stat. 4829; renumbered title VIII, §813, and amended Pub. L. 102-573, title VII, §701(a), (b), title IX, §902(8), Oct. 29, 1992, 106 Stat. 4572, 4592.)

## REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsecs. (b)(1)(B) and (d), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

## AMENDMENTS

1992—Subsec. (b)(2)(A). Pub. L. 102-573, §902(8), substituted “section 1642(a) of this title” for “section 402(c) of this Act”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1621f, 1637, 1645 of this title.

### § 1680d. Infant and maternal mortality; fetal alcohol syndrome

By no later than January 1, 1990, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1994:

(1) reduction of the rate of Indian infant mortality in each area office of the Service to the lower of—

(A) twelve deaths per one thousand live births, or

(B) the rate of infant mortality applicable to the United States population as a whole;

(2) reduction of the rate of maternal mortality in each area office of the Service to the lower of—

(A) five deaths per one hundred thousand live births, or

(B) the rate of maternal mortality applicable to the United States population as a whole; and

(3) reduction of the rate of fetal alcohol syndrome among Indians served by, or on behalf of, the Service to one per one thousand live births.

(Pub. L. 94-437, title VIII, §814, formerly title VII, §714, as added Pub. L. 100-713, title VII, §708, Nov. 23, 1988, 102 Stat. 4831; renumbered title VIII, §814, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §804, Oct. 29, 1992, 106 Stat. 4572, 4585.)

## AMENDMENTS

1992—Pub. L. 102-573, §804, struck out subsec. (a) designation before “By no later” and struck out subsec. (b) which read as follows: “The President shall include with the budget submitted under section 1105 of title 31 for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a) of this section.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

### § 1680e. Contract health services for the Trenton Service Area

#### (a) Service to Turtle Mountain Band

The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

#### (b) Band member eligibility not expanded

Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

(Pub. L. 94-437, title VIII, §815, formerly title VII, §715, as added Pub. L. 100-713, title VII, §709, Nov. 23, 1988, 102 Stat. 4831; renumbered title VIII, §815, Pub. L. 102-573, title VII, §701(a), (b), Oct. 29, 1992, 106 Stat. 4572.)

### § 1680f. Indian Health Service and Department of Veterans Affairs health facilities and services sharing

#### (a) Feasibility study and report

The Secretary shall examine the feasibility of entering into an arrangement for the sharing of medical facilities and services between the Indian Health Service and the Department of Veterans Affairs and shall, in accordance with subsection (b) of this section, prepare a report on the feasibility of such an arrangement and submit such report to the Congress by no later than September 30, 1990.

#### (b) Nonimpairment of service quality, eligibility, or priority of access

The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38 which would impair—

(1) the priority access of any Indian to health care services provided through the Indian Health Service;

(2) the quality of health care services provided to any Indian through the Indian Health Service;

(3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;

(4) the quality of health care services provided to any veteran by the Department of Veterans Affairs;

(5) the eligibility of any Indian to receive health services through the Indian Health Service; or

(6) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

#### (c) Cross utilization of services

(1) Not later than December 23, 1988, the Director of the Indian Health Service and the Secretary of Veterans Affairs shall implement an agreement under which—

(A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the

Department of Veterans Affairs could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and

(B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the Department of Veterans Affairs medical center located in Salt Lake City, Utah.

(2) Not later than November 23, 1990, the Secretary and the Secretary of Veterans Affairs shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).

**(d) Right to health services**

Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service except as provided in an agreement under subsection (c) of this section.

(Pub. L. 94-437, title VIII, §816, formerly title VII, §716, as added Pub. L. 100-713, title VII, §710, Nov. 23, 1988, 102 Stat. 4832; amended Pub. L. 102-54, §13(j)(2), June 13, 1991, 105 Stat. 276; renumbered title VIII, §816, and amended Pub. L. 102-573, title VII, §701(a), (b), title IX, §902(9), Oct. 29, 1992, 106 Stat. 4572, 4592.)

**AMENDMENTS**

1992—Pub. L. 102-573, §902(9), amended section catchline.

1991—Subsecs. (a), (b)(3), (4), (6). Pub. L. 102-54, §13(j)(2)(A), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (c)(1). Pub. L. 102-54, §13(j)(2)(B), substituted “Not later than December 23, 1988, the Director of the Indian Health Service and the Secretary of Veterans Affairs shall” for “Within 30 days after November 23, 1988, the Director of the Indian Health Service and the Administrator of Veterans’ Affairs are authorized and directed to”.

Subsec. (c)(1)(A), (B). Pub. L. 102-54, §13(j)(2)(A), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (c)(2). Pub. L. 102-54, §13(j)(2)(C), substituted “Not later than November 23, 1990, the Secretary and the Secretary of Veterans Affairs shall” for “Not later than 2 years after November 23, 1988, the Secretary and the Administrator of Veterans’ Affairs shall”.

**§ 1680g. Reallocation of base resources**

**(a) Report to Congress**

Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

**(b) Appropriated amounts**

Subsection (a) of this section shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

(Pub. L. 94-437, title VIII, §817, formerly title VII, §717, as added Pub. L. 100-713, title VII, §711,

Nov. 23, 1988, 102 Stat. 4833; renumbered title VIII, §817, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §805, Oct. 29, 1992, 106 Stat. 4572, 4585.)

**AMENDMENTS**

1992—Subsec. (a). Pub. L. 102-573, §805, substituted “Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title,” for “Secretary has submitted to the Congress”.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1671 of this title.

**§ 1680h. Demonstration projects for tribal management of health care services**

**(a) Establishment; grants**

(1) The Secretary, acting through the Service, shall make grants to Indian tribes to establish demonstration projects under which the Indian tribe will develop and test a phased approach to assumption by the Indian tribe of the health care delivery system of the Service for members of the Indian tribe living on or near the reservations of the Indian tribe through the use of Service, tribal, and private sector resources.

(2) A grant may be awarded to an Indian tribe under paragraph (1) only if the Secretary determines that the Indian tribe has the administrative and financial capabilities necessary to conduct a demonstration project described in paragraph (1).

**(b) Health care contracts**

During the period in which a demonstration project established under subsection (a) of this section is being conducted by an Indian tribe, the Secretary shall award all health care contracts, including community, behavioral, and preventive health care contracts, to the Indian tribe in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act [42 U.S.C. 300w et seq.] (as modified as necessary by any agreement entered into between the Secretary and the Indian tribe to achieve the purposes of the demonstration project established under subsection (a) of this section) shall apply.

**(c) Waiver of procurement laws**

The Secretary may waive such provisions of Federal procurement law as are necessary to enable any Indian tribe to develop and test administrative systems under the demonstration project established under subsection (a) of this section, but only if such waiver does not diminish or endanger the delivery of health care services to Indians.

**(d) Termination; evaluation and report**

(1) The demonstration project established under subsection (a) of this section shall terminate on September 30, 1993, or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made.

(2) By no later than September 30, 1996, the Secretary shall evaluate the performance of each Indian tribe that has participated in a demonstration project established under subsection (a) of this section and shall submit to the Con-

gress a report on such evaluations and demonstration projects.

**(e) Joint venture demonstration projects**

(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.<sup>1</sup>

(Pub. L. 94-437, title VIII, §818, formerly title VII, §718, as added Pub. L. 100-713, title VII, §713, Nov. 23, 1988, 102 Stat. 4833; renumbered title VIII, §818, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §808, Oct. 29, 1992, 106 Stat. 4572, 4586.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (b), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title XIX of the Public Health Service Act is classified generally to part A (§300w et seq.) of subchapter XVII of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (d)(1). Pub. L. 102-573, §808(1)(A), inserted before period at end “, or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made”.

Subsec. (d)(2). Pub. L. 102-573, §808(1)(B), substituted “1996” for “1994”.

Subsec. (e). Pub. L. 102-573, §808(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”

<sup>1</sup> So in original. The words “, shall be recoverable” probably should not appear.

**§ 1680i. Child sexual abuse treatment programs**

**(a) Continuation of existing demonstration programs**

The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

**(b) Establishment of new demonstration programs**

Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).

(Pub. L. 94-437, title VIII, §819, formerly title VII, §719, as added Pub. L. 100-713, title VII, §715, Nov. 23, 1988, 102 Stat. 4836; renumbered title VIII, §819, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §806, Oct. 29, 1992, 106 Stat. 4572, 4586.)

AMENDMENTS

1992—Pub. L. 102-573, §806, amended section generally. Prior to amendment, section read as follows:

“(a) The Secretary and the Secretary of the Interior shall, for each of the fiscal years 1989, 1990, and 1991, continue to provide through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation the demonstration programs involving treatment for child sexual abuse that were conducted during fiscal year 1988 through such tribes.

“(b) There are authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.”

**§ 1680j. Tribal leasing**

Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

(Pub. L. 94-437, title VIII, §820, formerly title VII, §720, as added Pub. L. 100-713, title VII, §716, Nov. 23, 1988, 102 Stat. 4837; renumbered title VIII, §820, and amended Pub. L. 102-573, title VII, §701(a), (b), title VIII, §807, Oct. 29, 1992, 106 Stat. 4572, 4586.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102-573, §807, amended section generally. Prior to amendment, section read as follows:

“(a) The Secretary, through the Service, shall make grants to the Eight Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

“(b) There are authorized to be appropriated to carry out this section \$250,000 for each of the fiscal years 1990 and 1991.”

**§ 1680k. Home- and community-based care demonstration project**

**(a) Authority of Secretary**

The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians.

**(b) Use of funds**

(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

(2) Such funds may not be used—

(A) to make cash payments to functionally disabled Indians;

(B) to provide room and board for functionally disabled Indians;

(C) for the construction or renovation of facilities or the purchase of medical equipment; or

(D) for the provision of nursing facility services.

**(c) Criteria for approval of applications**

Not later than 180 days after October 29, 1992, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians;<sup>1</sup>

**(d) Assistance to applicants**

The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

**(e) Services to ineligible persons**

At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

**(f) Maximum number of demonstration projects**

The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of

demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c) of this section.

**(g) Report**

The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 1671 of this title for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

**(h) Definitions**

For the purposes of this section, the following definitions shall apply:

(1) The term “home- and community-based services” means one or more of the following:

(A) Homemaker/home health aide services.

(B) Chore services.

(C) Personal care services.

(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

(E) Respite care.

(F) Training for family members in managing a functionally disabled individual.

(G) Adult day care.

(H) Such other home- and community-based services as the Secretary may approve.

(2) The term “functionally disabled” means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

**(i) Authorization of appropriations**

There are authorized to be appropriated for each of the fiscal years 1996 through 2000 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

(Pub. L. 94-437, title VIII, §821, as added Pub. L. 102-573, title VIII, §809, Oct. 29, 1992, 106 Stat. 4587; amended Pub. L. 104-313, §2(g), Oct. 19, 1996, 110 Stat. 3822.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1996—Subsec. (i). Pub. L. 104-313 substituted “1996 through 2000” for “1993, 1994, 1995, 1996, and 1997”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1671, 1680o of this title.

<sup>1</sup> So in original. The semicolon probably should be a period.

**§ 1680l. Shared services demonstration project****(a) Authority of Secretary**

The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into contracts with Indian tribes or tribal organizations to establish not more than 6 shared services demonstration projects for the delivery of long-term care to Indians. Such projects shall provide for the sharing of staff or other services between a Service facility and a nursing facility owned and operated (directly or by contract) by such Indian tribe or tribal organization.

**(b) Contract requirements**

A contract entered into pursuant to subsection (a) of this section—

(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

(2) shall provide that expenses (including salaries) relating to services that are shared between the Service facility and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

(3) may authorize such tribe or tribal organization to construct, renovate, or expand a nursing facility (including the construction of a facility attached to a Service facility), except that no funds appropriated for the Service shall be obligated or expended for such purpose.

**(c) Eligibility**

To be eligible for a contract under this section, a tribe or tribal organization, shall, as of October 29, 1992—

(1) own and operate (directly or by contract) a nursing facility;

(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the tribe or tribal organization; or

(3) have adopted a tribal resolution providing for the construction of a nursing facility.

**(d) Nursing facilities**

Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1396r of title 42.

**(e) Assistance to applicants**

The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

**(f) Report**

The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 1671 of this title, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

(Pub. L. 94-437, title VIII, §822, as added Pub. L. 102-573, title VIII, §810, Oct. 29, 1992, 106 Stat. 4588.)

## CODIFICATION

October 29, 1992, referred to in subsec. (c), was in the original “the date of the enactment of this Act”, which was translated as meaning the date of enactment of Pub. L. 102-573, which enacted this section, to reflect the probable intent of Congress.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1671 of this title.

**§ 1680m. Results of demonstration projects**

The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this chapter.

(Pub. L. 94-437, title VIII, §823, as added Pub. L. 102-573, title VIII, §811, Oct. 29, 1992, 106 Stat. 4589.)

**§ 1680n. Priority for Indian reservations****(a) Facilities and projects**

Beginning on October 29, 1992, the Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian tribe with jurisdiction over such lands.

**(b) “Indian lands” defined**

For purposes of this section, the term “Indian lands” means—

(1) all lands within the limits of any Indian reservation; and

(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(Pub. L. 94-437, title VIII, §824, as added Pub. L. 102-573, title VIII, §812, Oct. 29, 1992, 106 Stat. 4589.)

**§ 1680o. Authorization of appropriations**

Except as provided in section 1680k of this title, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this subchapter.

(Pub. L. 94-437, title VIII, §825, as added Pub. L. 102-573, title VIII, §813(a), Oct. 29, 1992, 106 Stat. 4590.)

**§ 1681. Billing of Indians by Indian Health Service**

The Indian Health Service shall neither bill nor charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy.

(Pub. L. 104-134, title I, §101(c) [title II], Apr. 26, 1996, 110 Stat. 1321-156, 1321-190; renumbered title

I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.)

#### CODIFICATION

Section was enacted as part of the appropriations act cited as the credit to this section, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 103-332, title II, Sept. 30, 1994, 108 Stat. 2529.  
 Pub. L. 103-138, title II, Nov. 11, 1993, 107 Stat. 1409.  
 Pub. L. 102-381, title II, Oct. 5, 1992, 106 Stat. 1409.  
 Pub. L. 102-154, title II, Nov. 13, 1991, 105 Stat. 1027.  
 Pub. L. 101-512, title II, Nov. 5, 1990, 104 Stat. 1952.  
 Pub. L. 101-121, title II, Oct. 23, 1989, 103 Stat. 734.  
 Pub. L. 100-446, title II, Sept. 27, 1988, 102 Stat. 1816.  
 Pub. L. 100-202, §101(g) [title II], Dec. 22, 1987, 101 Stat. 1329-213, 1329-245.  
 Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.  
 Pub. L. 99-190, §101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1256.  
 Pub. L. 98-473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1682 of this title.

### § 1682. Subrogation of claims by Indian Health Service

On and after October 18, 1986, the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402<sup>1</sup> of the Indian Health Care Improvement Act.

(Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.)

#### REFERENCES IN TEXT

Sections 401 and 402 of the Indian Health Care Improvement Act, referred to in text, probably means former sections 401 and 402 of Pub. L. 94-437, title IV, Sept. 30, 1976, 90 Stat. 1408, 1409, which enacted sections 1395qq and 1396j of Title 42, The Public Health and Welfare, amended sections 1395f, 1395n, and 1396d of Title 42, and enacted provisions set out as notes under sections 1395qq and 1396j of Title 42. Sections 401 and 402 of the Act were amended generally by section 401(a), (b)(1) of Pub. L. 102-573, title IV, Oct. 29, 1992, 106 Stat. 4565, and are classified to sections 1641 and 1642 of this title, respectively.

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.  
 Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99-500 and Pub. L. 99-591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

#### PRIOR PROVISIONS

A prior section 1682, Pub. L. 98-473, title I, §101(c) [title II], Oct. 12, 1984, 98 Stat. 1837, 1865, which related

to subrogation of claims by Indian Health Service, was omitted as superseded by section 101(h) [title II] of Pub. L. 99-500 and Pub. L. 99-591.

### § 1683. Indian Catastrophic Health Emergency Fund

\$10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the "Fund"). On and after October 18, 1986, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 450 et seq.]. There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation.

(Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-276, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-276.)

#### REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638), referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), referred to in text, probably means Pub. L. 87-693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§2651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1987, as enacted by Pub. L. 99-500 and Pub. L. 99-591, and not as part of the Indian Health Care Improvement Act which comprises this chapter.

<sup>1</sup> See References in Text note below.

Sec.

## CHAPTER 19—INDIAN LAND CLAIMS SETTLEMENTS

### SUBCHAPTER I—RHODE ISLAND INDIAN CLAIMS SETTLEMENT

#### PART A—GENERAL PROVISIONS

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#### SUBCHAPTER I—RHODE ISLAND INDIAN CLAIMS SETTLEMENT

##### PART A—GENERAL PROVISIONS

### § 1701. Congressional findings and declaration of policy

Congress finds and declares that—

(a) there are pending before the United States District Court for the District of Rhode Island two consolidated actions that involve Indian claims to certain public and private lands within the town of Charlestown, Rhode Island;

(b) the pendency of these lawsuits has resulted in severe economic hardships for the residents of the town of Charlestown by clouding the titles to much of the land in the town, including lands not involved in the lawsuits;

(c) the Congress shares with the State of Rhode Island and the parties to the lawsuits a desire to remove all clouds on titles resulting from such Indian land claims within the State of Rhode Island; and

(d) the parties to the lawsuits and others interested in the settlement of Indian land claims within the State of Rhode Island have executed a Settlement Agreement which requires implementing legislation by the Congress of the United States and the legislature of the State of Rhode Island.

(Pub. L. 95-395, § 2, Sept. 30, 1978, 92 Stat. 813.)

#### SHORT TITLE

Section 1 of Pub. L. 95-395 provided: "That this Act [enacting this subchapter] may be cited as the 'Rhode Island Indian Claims Settlement Act'."

For short title of Pub. L. 96-420, which enacted subchapter II of this chapter as the "Maine Indian Claims Settlement Act of 1980", see section 1 of Pub. L. 96-420, set out as a Short Title note under section 1721 of this title.

For short title of Pub. L. 97-399, which enacted subchapter III of this chapter as the "Florida Indian Land Claims Settlement Act of 1982", see section 1 of Pub. L. 97-399, set out as a note under section 1741 of this title.

For short title of Pub. L. 98-134, which enacted subchapter IV of this chapter as the "Mashantucket Pequot Indian Claims Settlement Act", see section 1 of Pub. L. 98-134, set out as a note under section 1751 of this title.

For short title of Pub. L. 100-95, which enacted subchapter V of this chapter as the "Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987", see section 1 of Pub. L. 100-95, set out as a note under section 1771 of this title.

For short title of Pub. L. 100-228, which enacted subchapter VI of this chapter as the "Seminole Indian Land Claims Settlement Act of 1987", see section 1 of Pub. L. 100-228, set out as a note under section 1772 of this title.

### § 1702. Definitions

For the purposes of this subchapter, the term—

(a) "Indian Corporation" means the Rhode Island nonbusiness corporation known as the "Narragansett Tribe of Indians";

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish;

(c) "lawsuits" means the actions entitled "Narragansett Tribe of Indians v. Southern Rhode Island Land Development Co., et al., C.A. No. 75-0006 (D.R.I.)" and "Narragansett Tribe of Indians v. Rhode Island Director of Environmental Management, C.A. No. 75-0005 (D.R.I.)";

(d) “private settlement lands” means approximately nine hundred acres of privately held land outlined in red in the map marked “Exhibit A” attached to the Settlement Agreement that are to be acquired by the Secretary from certain private landowners pursuant to sections 1704 and 1707 of this title;

(e) “public settlement lands” means the lands described in paragraph 2 of the Settlement Agreement that are to be conveyed by the State of Rhode Island to the State Corporation pursuant to legislation as described in section 1706 of this title;

(f) “settlement lands” means those lands defined in subsections (d) and (e) of this section;

(g) “Secretary” means the Secretary of the Interior;

(h) “settlement agreement” means the document entitled “Joint Memorandum of Understanding Concerning Settlement of the Rhode Island Indian Land Claims”, executed as of February 28, 1978, by representatives of the State of Rhode Island, of the town of Charlestown, and of the parties to the lawsuits, as filed with the Secretary of the State of Rhode Island;

(i) “State Corporation” means the corporation created or to be created by legislation enacted by the State of Rhode Island as described in section 1706 of this title; and

(j) “transfer” includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of land or natural resources.

(Pub. L. 95-395, § 3, Sept. 30, 1978, 92 Stat. 813.)

### **§ 1703. Rhode Island Indian Claims Settlement Fund; establishment**

There is hereby established in the United States Treasury a fund to be known as the Rhode Island Indian Claims Settlement Fund into which \$3,500,000 shall be deposited following the appropriation authorized by section 1710 of this title.

(Pub. L. 95-395, § 4, Sept. 30, 1978, 92 Stat. 814.)

#### **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 1704, 1707 of this title.

### **§ 1704. Option agreements to purchase private settlement lands**

#### **(a) Acceptance of option agreement assignments; reasonableness of terms and conditions**

The Secretary shall accept assignment of reasonable two-year option agreements negotiated by the Governor of the State of Rhode Island or his designee for the purchase of the private settlement lands: *Provided*, That the terms and conditions specified in such options are reasonable and that the total price for the acquisition of such lands, including reasonable costs of acquisition, will not exceed the amount specified in section 1703 of this title. If the Secretary does not determine that any such option agreement is unreasonable within sixty days of its submis-

sion, the Secretary will be deemed to have accepted the assignment of the option.

#### **(b) Amount of payment**

Payment for any option entered into pursuant to subsection (a) of this section shall be in the amount of 5 per centum of the fair market value of the land or natural resources as of the date of the agreement and shall be paid from the fund established by section 1703 of this title.

#### **(c) Limitation on option fees**

The total amount of the option fees paid pursuant to subsection (b) of this section shall not exceed \$175,000.

#### **(d) Application of option fee**

The option fee for each option agreement shall be applied to the agreed purchase price in the agreement if the purchase of the defendant's land or natural resources is completed in accordance with the terms of the option agreement.

#### **(e) Retention of option payment**

The payment for each option may be retained by the party granting the option if the property transfer contemplated by the option agreement is not completed in accordance with the terms of the option agreement.

(Pub. L. 95-395, § 5, Sept. 30, 1978, 92 Stat. 814.)

#### **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 1702, 1707 of this title.

### **§ 1705. Publication of findings**

#### **(a) Prerequisites; consequences**

If the Secretary finds that the State of Rhode Island has satisfied the conditions set forth in section 1706 of this title, he shall publish such findings in the Federal Register and upon such publication—

(1) any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, and any transfer of land or natural resources located anywhere within the town of Charlestown, Rhode Island, by, from, or on behalf of any Indian, Indian nation, or tribe of Indians, including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1 Stat. 137, and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in subsection (a) of this section may involve land or natural re-

sources to which the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, had aboriginal title, subsection (a) of this section shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of a transfer of land or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof, or any other Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or right involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy) shall be regarded as extinguished as of the date of the transfer.

**(b) Maintenance of action; remedy**

Any Indian, Indian nation, or tribe of Indians (other than the Indian Corporation or any other entity presently or at any time in the past known as the Narragansett Tribe of Indians, or any predecessor or successor in interest, member or stockholder thereof) whose transfer of land or natural resources was approved or whose aboriginal title or claims were extinguished by subsection (a) of this section may, within a period of one hundred and eighty days after publication of the Secretary's findings pursuant to this section, bring an action against the State Corporation in lieu of an action against any other person against whom a cause may have existed in the absence of this section. In any such action, the remedy shall be limited to a right of possession of the settlement lands.

(Pub. L. 95-395, § 6, Sept. 30, 1978, 92 Stat. 815.)

REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790, ch. 33, sec. 4, 1 Stat. 137, referred to in subsec. (a)(1), was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1707, 1712 of this title.

**§ 1706. Findings by Secretary**

Section 1705 of this title shall not take effect until the Secretary finds—

(a) that the State of Rhode Island has enacted legislation creating or authorizing the creation of a State chartered corporation satisfying the following criteria:

(1) the corporation shall be authorized to acquire, perpetually manage, and hold the settlement lands;

(2) the corporation shall be controlled by a board of directors, the majority of the mem-

bers of which shall be selected by the Indian Corporation or its successor, and the remaining members of which shall be selected by the State of Rhode Island; and

(3) the corporation shall be authorized, after consultation with appropriate State officials, to establish its own regulations concerning hunting and fishing on the settlement lands, which need not comply with regulations of the State of Rhode Island but which shall establish minimum standards for the safety of persons and protection of wildlife and fish stock; and

(b) that State of Rhode Island has enacted legislation authorizing the conveyance to the State Corporation of land and natural resources that substantially conform to the public settlement lands as described in paragraph 2 of the Settlement Agreement.

(Pub. L. 95-395, § 7, Sept. 30, 1978, 92 Stat. 816.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1702, 1705, 1707, 1709 of this title.

**§ 1707. Purchase and transfer of private settlement lands**

**(a) Determination by Secretary; assignment of settlement lands to State Corporation**

When the Secretary determines that the State Corporation described in section 1706(a) of this title has been created and will accept the settlement lands, the Secretary shall exercise within sixty days the options entered into pursuant to section 1704 of this title and assign the private settlement lands thereby purchased to the State Corporation.

**(b) Moneys remaining in fund**

Any moneys remaining in the fund established by section 1703 of this title after the purchase described in subsection (a) of this section shall be returned to the general Treasury of the United States.

**(c) Duties and liabilities of United States upon discharge of Secretary's duties; restriction on conveyance of settlement lands; affect on easements for public or private purposes**

Upon the discharge of the Secretary's duties under sections 1704, 1705, 1706, and 1707 of this title, the United States shall have no further duties or liabilities under this subchapter with respect to the Indian Corporation or its successor, the State Corporation, or the settlement lands: *Provided, however*, That if the Secretary subsequently acknowledges the existence of the Narragansett Tribe of Indians, then the settlement lands may not be sold, granted, or otherwise conveyed or leased to anyone other than the Indian Corporation, and no such disposition of the settlement lands shall be of any validity in law or equity, unless the same is approved by the Secretary pursuant to regulations adopted by him for that purpose: *Provided, however*, That nothing in this subchapter shall affect or otherwise impair the ability of the State Corporation to grant or otherwise convey (including any involuntary conveyance by means of eminent domain or condemnation proceedings) any ease-

ment for public or private purposes pursuant to the laws of the State of Rhode Island.

(Pub. L. 95-395, §8, Sept. 30, 1978, 92 Stat. 816.)

**§ 1708. Applicability of State law; treatment of settlement lands under Indian Gaming Regulatory Act**

**(a) In general**

Except as otherwise provided in this subchapter, the settlement lands shall be subject to the civil and criminal laws and jurisdiction of the State of Rhode Island.

**(b) Treatment of settlement lands under Indian Gaming Regulatory Act**

For purposes of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), settlement lands shall not be treated as Indian lands.

(Pub. L. 95-395, §9, Sept. 30, 1978, 92 Stat. 817; Pub. L. 104-208, div. A, title I, §101(d) [title III, §330], Sept. 30, 1996, 110 Stat. 3009-181, 3009-227.)

REFERENCES IN TEXT

The Indian Gaming Regulatory Act, referred to in subsec. (b), is Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104-208 substituted “Applicability of State law; treatment of settlement lands under Indian Gaming Regulatory Act” for “Applicability of State law” in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1702 of this title.

**§ 1709. Preservation of Federal benefits**

Nothing contained in this subchapter or in any legislation enacted by the State of Rhode Island as described in section 1706 of this title shall affect or otherwise impair in any adverse manner any benefits received by the State of Rhode Island under the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669-669(i)), or the Federal Aid in Fish Restoration Act of August 9, 1950 (16 U.S.C. 777-777(k)).

(Pub. L. 95-395, §10, Sept. 30, 1978, 92 Stat. 817.)

REFERENCES IN TEXT

The Federal Aid in Wildlife Restoration Act of September 2, 1937, referred to in text, is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, which is classified generally to chapter 5B (§669 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see short title note set out under section 669 of Title 16 and Tables.

The Federal Aid in Fish Restoration Act of August 9, 1950, referred to in text, is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, which is classified generally to chapter 10B (§777 et seq.) of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 777 of Title 16 and Tables.

**§ 1710. Authorization of appropriations**

There is hereby authorized to be appropriated \$3,500,000 to carry out the purposes of this subchapter.

(Pub. L. 95-395, §11, Sept. 30, 1978, 92 Stat. 817.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1703 of this title.

**§ 1711. Limitation of actions; jurisdiction**

Notwithstanding any other provision of law, any action to contest the constitutionality of this subchapter shall be barred unless the complaint is filed within one hundred and eighty days of September 30, 1978. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Rhode Island.

(Pub. L. 95-395, §12, Sept. 30, 1978, 92 Stat. 817.)

**§ 1712. Approval of prior transfers and extinguishment of claims and aboriginal title outside town of Charlestown, Rhode Island and involving other Indians in Rhode Island**

**(a) Scope of applicability**

Except as provided in subsection (b) of this section—

(1) any transfer of land or natural resources located anywhere within the State of Rhode Island outside the town of Charlestown from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (other than transfers included in and approved by section 1705 of this title), including but not limited to a transfer pursuant to any statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfer effective as of the date of said transfer;

(2) to the extent that any transfer of land or natural resources described in paragraph (1) may involve land or natural resources to which such Indian, Indian nation, or tribe of Indians had aboriginal title, paragraph (1) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer; and

(3) by virtue of the approval of such transfers of land or natural resources effected by this subsection or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by any such Indian, Indian nation, or tribe of Indians, arising subsequent to the transfer and based upon any interest in or rights involving such land or natural resources (including but not limited to claims for trespass damages or claims for use and occupancy), shall be regarded as extinguished as of the date of the transfer.

**(b) Exceptions**

This section shall not apply to any claim, right, or title of any Indian, Indian nation, or tribe of Indians that is asserted in an action

commenced in a court of competent jurisdiction within one hundred and eighty days of September 30, 1978: *Provided*, That the plaintiff in any such action shall cause notice of the action to be served upon the Secretary and the Governor of the State of Rhode Island.

(Pub. L. 95-395, §13, Sept. 30, 1978, 92 Stat. 817.)

#### REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), referred to in subsec. (a)(1), was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

#### PART B—TAX TREATMENT

### § 1715. Exemption from taxation

#### (a) General exemption

Except as otherwise provided in subsections (b) and (c) of this section, the settlement lands received by the State Corporation shall not be subject to any form of Federal, State, or local taxation while held by the State Corporation.

#### (b) Income-producing activities

The exemption provided in subsection (a) of this section shall not apply to any income-producing activities occurring on the settlement lands.

#### (c) Payments in lieu of taxes

Nothing in this subchapter shall prevent the making of payments in lieu of taxes by the State Corporation for services provided in connection with the settlement lands.

(Pub. L. 95-395, title II, §201, as added Pub. L. 96-601, §5(a), Dec. 24, 1980, 94 Stat. 3498.)

#### EFFECTIVE DATE

Section 5(b) of Pub. L. 96-601 provided that: “The amendment made by subsection (a) [enacting this part] shall take effect on September 30, 1978.”

### § 1716. Deferral of capital gains

For purposes of title 26, any sale or disposition of private settlement lands pursuant to the terms and conditions of the settlement agreement shall be treated as an involuntary conversion within the meaning of section 1033 of title 26.

(Pub. L. 95-395, title II, §202, as added Pub. L. 96-601, §5(a), Dec. 24, 1980, 94 Stat. 3499; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

#### AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

#### SUBCHAPTER II—MAINE INDIAN CLAIMS SETTLEMENT

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 20 section 1087uu-1.

### § 1721. Congressional findings and declaration of policy

#### (a) Findings and declarations

Congress hereby finds and declares that:

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the ground that the lands in question were originally transferred in violation of law, including, but without limitation, the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, that once may have held aboriginal title to lands within the State of Maine long ago abandoned their aboriginal holdings.

(3) The Penobscot Nation, as represented as of the time of passage of this subchapter by the Penobscot Nation's Governor and Council, is the sole successor in interest to the aboriginal entity generally known as the Penobscot Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Passamaquoddy Tribe, as represented as of the time of passage of this subchapter by the Joint Tribal Council of the Passamaquoddy Tribe, is the sole successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this subchapter by the Houlton Band Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens, and communities in the State of Maine, and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This subchapter represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians with a fair and just settlement of their land claims. In the absence of congressional action, these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The State of Maine, with the agreement of the Passamaquoddy Tribe and the Penobscot Nation, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, and their members, and the State of Maine.

(9) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indi-

ans. During this same period, the United States provided few special services to the respective tribe, nation, or band, and repeatedly denied that it had jurisdiction over or responsibility for the said tribe, nation, and band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

#### (b) Purposes

It is the purpose of this subchapter—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe, and the Penobscot Nation, and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine, as provided herein.

(Pub. L. 96-420, § 2, Oct. 10, 1980, 94 Stat. 1785.)

#### REFERENCES IN TEXT

The Trade and Intercourse Act of 1790 (1 Stat. 137), referred to in subsec. (a)(1), is act July 22, 1790, ch. 33, 1 Stat. 137, which was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

#### SHORT TITLE

Section 1 of Pub. L. 96-420 provided: "That this Act [enacting this subchapter] may be cited as the 'Maine Indian Claims Settlement Act of 1980'."

#### AROOSTOOK BAND OF MICMACS SETTLEMENT

Pub. L. 102-171, Nov. 26, 1991, 105 Stat. 1143, provided that:

#### "SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Aroostook Band of Micmacs Settlement Act'."

#### "SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

"(a) FINDINGS AND POLICY.—Congress hereby finds and declares that:

"(1) The Aroostook Band of Micmacs, as represented as of the time of passage of this Act by the Aroostook Micmac Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Micmac Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

"(2) The Band was not referred to in the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.] because historical documentation of the Micmac presence in Maine was not available at that time.

"(3) This documentation does establish the historical presence of Micmacs in Maine and the existence of aboriginal lands in Maine jointly used by the Micmacs and other tribes to which the Micmacs could have asserted aboriginal title but for the extinguishment of all such claims by the Maine Indian Claims Settlement Act of 1980.

"(4) The Aroostook Band of Micmacs, in both its history and its presence in Maine, is similar to the

Houlton Band of Maliseet Indians and would have received similar treatment under the Maine Indian Claims Settlement Act of 1980 if the information available today had been available to Congress and the parties at that time.

"(5) It is now fair and just to afford the Aroostook Band of Micmacs the same settlement provided to the Houlton Band of Maliseet Indians for the settlement of that Band's claims, to the extent they would have benefited from inclusion in the Maine Indian Claims Settlement Act of 1980.

"(6) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Aroostook Band of Micmacs. During this same period, the United States provided few special services to the Band and repeatedly denied that it had jurisdiction over or responsibility for the Indian groups in Maine. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this settlement.

"(b) PURPOSE.—It is the purpose of this Act to—

"(1) provide Federal recognition of the Band;

"(2) provide to the members of the Band the services which the United States provides to Indians because of their status as Indians; and

"(3) place \$900,000 in a land acquisition fund and property tax fund for the future use of the Aroostook Band of Micmacs; and

"(4) ratify the Micmac Settlement Act, which defines the relationship between the State of Maine and the Aroostook Band of Micmacs.

#### "SEC. 3. DEFINITIONS.

"For the purposes of this Act:

"(1) The term 'Band' means the Aroostook Band of Micmacs, the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Aroostook Band of Micmacs is represented, as of the date of enactment of this Act [Nov. 26, 1991], as to lands within the United States, by the Aroostook Micmac Council.

"(2) The term 'Band Tax Fund' means the fund established under section 4(b) of this Act.

"(3) The term 'Band Trust Land' means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Band.

"(4) The term 'land or natural resources' means any real property or natural resources, or any interest in or right involving any real property or natural resources, including (but not limited to) minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

"(5) The term 'Land Acquisition Fund' means the fund established under section 4(a) of this Act.

"(6) The term 'laws of the State' means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof.

"(7) The term 'Maine Implementing Act' means the Act entitled 'Act to Implement the Maine Indian Claims Settlement' that was enacted by the State of Maine in chapter 732 of the Maine Public Laws of 1979, as amended by chapter 675 of the Maine Public Laws of 1981 and chapter 672 of the Maine Public Laws of 1985, and all subsequent amendments thereto.

"(8) The term 'Micmac Settlement Act' means the Act entitled 'Act to implement the Aroostook Band of Micmacs Settlement Act' that was enacted by the State of Maine in chapter 148 of the Maine Public Laws of 1989, and all subsequent amendments thereto.

"(9) The term 'Secretary' means the Secretary of the Interior.



“SEC. 4. AROOSTOOK BAND OF MICMACS LAND ACQUISITION AND PROPERTY TAX FUNDS.

“(a) LAND ACQUISITION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Land Acquisition Fund, into which \$900,000 shall be deposited by the Secretary following the appropriation of sums authorized by section 10.

“(b) BAND TAX FUND.—(1) There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Tax Fund, into which shall be deposited \$50,000 in accordance with the provisions of this Act.

“(2) Income accrued on the Land Acquisition Fund shall be transferred to the Band Tax Fund until a total of \$50,000 has been transferred to the Band Tax Fund under this paragraph. No transfer shall be made under this subsection if such transfer would diminish the Land Acquisition Fund to a balance of less than \$900,000.

“(3) Whenever funds are transferred to the Band Tax Fund under paragraph (2), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the total amount of \$50,000 has been transferred to the Band Tax Fund.

“(4) The Secretary shall manage the Band Tax Fund in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), and shall utilize the principal and interest of the Band Tax Fund only as provided in paragraph (5) and section 5(d) and for no other purpose.

“(5) Notwithstanding the provisions of title 31, United States Code, the Secretary shall pay out of the Band Tax Fund, all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

“(A) for which the Band is determined to be liable;

“(B) which are final and not subject to further administrative or judicial review; and

“(C) which have been certified by the Commissioner of Finance in the State of Maine as valid claims that meet the requirements of this paragraph.

“(c) SOURCE FOR CERTAIN PAYMENTS.—Notwithstanding any other provision of law, if—

“(1) the Band is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest and penalties thereon, and

“(2) there are insufficient funds in the Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full, the deficiency shall be paid by the Band only from income-producing property owned by the Band which is not held in trust for the Band by the United States and the Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

“(d) PROCEDURE FOR FILING AND PAYMENT OF CLAIMS.—The Secretary shall, after consultation with the Commissioner of Finance of the State of Maine, and the Band, prescribe written procedures governing the filing and payment of claims under this section.

“SEC. 5. AROOSTOOK BAND TRUST LANDS.

“(a) IN GENERAL.—Subject to the provisions of section 4, the Secretary is authorized and directed to expend, at the request of the Band, the principal of, and income accruing on, the Land Acquisition Fund for the purposes of acquiring land or natural resources for the Band and for no other purposes. Land or natural resources acquired within the State of Maine with funds expended under the authority of this subsection shall be held in trust by the United States for the benefit of the Band.

“(b) ALIENATION.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be alienated only by—

“(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c);

“(B) takings for public use pursuant to the laws of the United States; or

“(C) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

“(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Band to another member of such Band.

“(3) Land or natural resources held in trust for the benefit of the Band may, at the request of the Band, be—

“(A) leased in accordance with the Act of August 9, 1955 (25 U.S.C. 415 et seq.);

“(B) leased in accordance with the Act of May 11, 1938 (25 U.S.C. 396a et seq.);

“(C) sold in accordance with section 7 of the Act of June 25, 1910 (25 U.S.C. 407);

“(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (25 U.S.C. 323 et seq.);

“(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the Band, as the circumstances require, so long as payment does not exceed 25 percent of the total value of the interests in land to be transferred by the Band; and

“(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

“(c) CONDEMNATION BY STATE OF MAINE AND POLITICAL SUBDIVISIONS THEREOF.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act [Nov. 26, 1991].

“(2) The consent of the United States is hereby given to the State of Maine to further amend the Micmac Settlement Act for the purpose of embodying the agreement described in paragraph (1).

“(d) ACQUISITION.—(1) Lands and natural resources may be acquired by the Secretary for the Band only if the Secretary has, at any time prior to such acquisition—

“(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Band Tax Fund contains \$50,000; and

“(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 4(d).

“(2)(A) No land or natural resources may be acquired by the Secretary for the Band until the Secretary files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired.

“(B) For purposes of subparagraph (A), a filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

“(3) Notwithstanding the provisions of the first section of the Act of August 1, 1888 (40 U.S.C. 257) and the first section of the Act of February 26, 1931 (40 U.S.C. 258a), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and

other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General of the United States, in the United States and condemn interests adverse to the ostensible owner.

“(4)(A) When trust or restricted land or natural resources of the Band are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited into the Land Acquisition Fund and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the Band shall designate, with the approval of the United States, and within 30 days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land acquired from the proceeds that is not acquired in trust shall be held in fee by the Band. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired from the proceeds.

“(B) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters involved in such condemnation proceedings in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

“(5) Land or natural resources acquired by the Secretary in trust for the Band shall be managed and administered in accordance with terms established by the Band and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or other applicable law.

#### “SEC. 6. LAWS APPLICABLE.

“(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Aroostook Band of Micmacs. The Band shall be eligible to receive all of the financial benefits which the United States provides to Indians and Indian tribes to the same extent, and subject to the same eligibility criteria, generally applicable to other federally recognized Indians and Indian tribes.

“(b) APPLICATION OF FEDERAL LAW.—For the purposes of application of Federal law, the Band and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.].

“(c) ELIGIBILITY FOR SPECIAL SERVICES.—Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Band in Aroostook County, Maine, shall be eligible for such services without regard to the existence of a reservation or the residence of members of the Band on or near a reservation.

“(d) AGREEMENTS WITH STATE REGARDING JURISDICTION.—The State of Maine and the Band are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by, or held in trust for the benefit of, the Band or any member of the Band. The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act for this purpose: *Provided*, That such amendment is made with the agreement of the Aroostook Band of Micmacs.

#### “SEC. 7. TRIBAL ORGANIZATION.

“(a) IN GENERAL.—The Band may organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the Band when act-

ing in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act. The Band shall file with the Secretary a copy of its organic governing document and any amendments thereto.

“(b) MEMBERS.—For purposes of benefits provided by reason of this Act, only persons who are citizens of the United States may be considered members of the Band except persons who, as of the date of enactment of this Act [Nov. 26, 1991], are enrolled members on the Band's existing membership roll, and direct lineal descendants of such members. Membership in the Band shall be subject to such further qualifications as may be provided by the Band in its organic governing document, or amendments thereto, subject to approval by the Secretary.

#### “SEC. 8. IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.

“For the purposes of this section, the Band is an ‘Indian tribe’ within the meaning of section 4(8) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(8)), except that nothing in this section shall alter or affect the jurisdiction of the State of Maine over child welfare matters as provided by the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.].

#### “SEC. 9. FEDERAL FINANCIAL AID PROGRAMS UNAFFECTED BY PAYMENTS UNDER THIS ACT.

“(a) STATE OF MAINE.—No payments to be made for the benefit of the Band pursuant to this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

“(b) BAND AND MEMBERS OF THE BAND.—(1) The eligibility for, or receipt of, payments from the State of Maine by the Band or any of its members shall not be considered by any department or agency of the United States in determining the eligibility of, or computing payments to, the Band or any of the members of the Band under any Federal financial aid program.

“(2) To the extent that eligibility for the benefits of any Federal financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

#### “SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated \$900,000 for the fiscal year 1992 for transfer to the Aroostook Band of Micmacs Land Acquisition Fund.

#### “SEC. 11. INTERPRETATION.

“In the event of a conflict of interpretation between the provisions of the Maine Implementing Act, the Micmac Settlement Act, or the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.] and this Act, the provisions of this Act shall govern.

#### “SEC. 12. LIMITATION OF ACTIONS.

“No provision of this Act may be construed to confer jurisdiction to sue, or to grant implied consent to the Band to sue, the United States or any of its officers with respect to the claims extinguished by the Maine Indian Claims Settlement Act of 1980 [25 U.S.C. 1721 et seq.].”

### § 1722. Definitions

For purposes of this subchapter, the term—

(a) “Houlton Band of Maliseet Indians” means the sole successor to the Maliseet Tribe of Indians as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Houlton Band of Maliseet Indians is represented, as of October 10, 1980, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians;

(b) “land or natural resources” means any real property or natural resources, or any interest in or right involving any real property or natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) “Land Acquisition Fund” means the Maine Indian Claims Land Acquisition Fund established under section 1724(c) of this title;

(d) “laws of the State” means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof;

(e) “Maine Implementing Act” means section 1, section 30, and section 31, of the “Act to Implement the Maine Indian Claims Settlement” enacted by the State of Maine in chapter 732 of the public laws of 1979;

(f) “Passamaquoddy Indian Reservation” means those lands as defined in the Maine Implementing Act;

(g) “Passamaquoddy Indian Territory” means those lands as defined in the Maine Implementing Act;

(h) “Passamaquoddy Tribe” means the Passamaquoddy Indian Tribe, as constituted in aboriginal times and all its predecessors and successors in interest. The Passamaquoddy Tribe is represented, as of October 10, 1980, by the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township and Pleasant Point Reservations;

(i) “Penobscot Indian Reservation” means those lands as defined in the Maine Implementing Act;

(j) “Penobscot Indian Territory” means those lands as defined in the Maine Implementing Act;

(k) “Penobscot Nation” means the Penobscot Indian Nation as constituted in aboriginal times, and all its predecessors and successors in interest. The Penobscot Nation is represented, as of October 10, 1980, by the Penobscot Nation Governor and Council;

(l) “Secretary” means the Secretary of the Interior;

(m) “Settlement Fund” means the Maine Indian Claims Settlement Fund established under section 1724(a) of this title; and

(n) “transfer” includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources.

(Pub. L. 96-420, § 3, Oct. 10, 1980, 94 Stat. 1786.)

**§ 1723. Approval of prior transfers and extinguishment of Indian title and claims of Indians within State of Maine**

**(a) Ratification by Congress; personal claims unaffected; United States barred from asserting claims on ground of noncompliance of transfers with State laws or occurring prior to December 1, 1873**

(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: *Provided however*, That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation, or tribe or band of Indians any claim under the laws of the State of Maine arising before October 10, 1980, and arising from any transfer of land or natural resources by any Indian, Indian nation, or tribe or band of Indians, located anywhere within the State of Maine, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, on the grounds that such transfer was not made in accordance with the laws of the State of Maine.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State of Maine arising from any transfer of land or natural resources located anywhere within the State of Maine from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State.

**(b) Aboriginal title extinguished as of date of transfer**

To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) of this section shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

**(c) Claims extinguished as of date of transfer**

By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

**(d) Effective date; authorization of appropriations; publication in Federal Register**

The provisions of this section shall take effect immediately upon appropriation of the funds authorized to be appropriated to implement the provisions of section 1724 of this title. The Secretary shall publish notice of such appropriation in the Federal Register when such funds are appropriated.

(Pub. L. 96-420, § 4, Oct. 10, 1980, 94 Stat. 1787.)

## REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), referred to in subsec. (a)(1), was not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1724, 1725, 1734 of this title.

**§ 1724. Maine Indian Claims Settlement and Land Acquisition Funds in the United States Treasury****(a) Establishment of Maine Indian Claims Settlement Fund; amount**

There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Settlement Fund in which \$27,000,000 shall be deposited following the appropriation of sums authorized by section 1733 of this title.

**(b) Apportionment of settlement fund; administration; investments; limitation on distributions; quarterly investment income payments; expenditures for aged members; cessation of trust responsibility following Federal payments**

(1) One-half of the principal of the settlement fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the settlement fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the settlement fund shall be administered by the Secretary in accordance with reasonable terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary: *Provided*, That the Secretary may not agree to terms which provide for investment of the settlement

fund in a manner not in accordance with section 162a of this title, unless the respective tribe or nation first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment: *Provided, further*, That until such terms have been agreed upon, the Secretary shall fix the terms for the administration of the portion of the settlement fund as to which there is no agreement.

(2) Under no circumstances shall any part of the principal of the settlement fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either tribe or nation: *Provided, however*, That nothing herein shall prevent the Secretary from investing the principal of said fund in accordance with paragraph (1) of this subsection.

(3) The Secretary shall make available to the Passamaquoddy Tribe and the Penobscot Nation in quarterly payments, without any deductions except as expressly provided in section 1725(d)(2) of this title and without liability to or on the part of the United States, any income received from the investment of that portion of the settlement fund allocated to the respective tribe or nation, the use of which shall be free of regulation by the Secretary. The Passamaquoddy Tribe and the Penobscot Nation annually shall each expend the income from \$1,000,000 of their portion of the settlement fund for the benefit of their respective members who are over the age of sixty. Once payments under this paragraph have been made to the tribe or nation, the United States shall have no further trust responsibility to the tribe or nation or their members with respect to the sums paid, any subsequent distribution of these sums, or any property or services purchased therewith.

**(c) Establishment of Maine Indian Claims Land Acquisition Fund; amount**

There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Land Acquisition Fund in which \$54,500,000 shall be deposited following the appropriation of sums authorized by section 1733 of this title.

**(d) Apportionment of land acquisition fund; expenditures for acquisition of land or natural resources; trust acreage; fee holdings; interests in corpus of trust for Houlton Band following termination of Band's interest in trust; agreement for acquisitions for benefit of Houlton Band: scope, report to Congress**

The principal of the land acquisition fund shall be apportioned as follows:

- (1) \$900,000 to be held in trust for the Houlton Band of Maliseet Indians;
- (2) \$26,800,000 to be held in trust for the Passamaquoddy Tribe; and
- (3) \$26,800,000 to be held in trust for the Penobscot Nation.

The Secretary is authorized and directed to expend, at the request of the affected tribe, nation or band, the principal and any income accruing to the respective portions of the land acquisition fund for the purpose of acquiring land or natural resources for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and for no other purpose. The

first 150,000 acres of land or natural resources acquired for the Passamaquoddy Tribe and the first 150,000 acres acquired for the Penobscot Nation within the area described in the Maine Implementing Act as eligible to be included within the Passamaquoddy Indian Territory and the Penobscot Indian Territory shall be held in trust by the United States for the benefit of the respective tribe or nation. The Secretary is also authorized to take in trust for the Passamaquoddy Tribe or the Penobscot Nation any land or natural resources acquired within the aforesaid area by purchase, gift, or exchange by such tribe or nation. Land or natural resources acquired outside the boundaries of the aforesaid areas shall be held in fee by the respective tribe or nation, and the United States shall have no further trust responsibility with respect thereto. Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the band: *Provided*, That no land or natural resources shall be so acquired for or on behalf of the Houlton Band of Maliseet Indians without the prior enactment of appropriate legislation by the State of Maine approving such acquisition: *Provided further*, That the Passamaquoddy Tribe and the Penobscot Nation shall each have a one-half undivided interest in the corpus of the trust, which shall consist of any such property or subsequently acquired exchange property, in the event the Houlton Band of Maliseet Indians should terminate its interest in the trust.

(4) The Secretary is authorized to, and at the request of either party shall, participate in negotiations between the State of Maine and the Houlton Band of Maliseet Indians for the purpose of assisting in securing agreement as to the land or natural resources to be acquired by the United States to be held in trust for the benefit of the Houlton Band. Such agreement shall be embodied in the legislation enacted by the State of Maine approving the acquisition of such lands as required by paragraph (3). The agreement and the legislation shall be limited to:

(A) provisions providing restrictions against alienation or taxation of land or natural resources held in trust for the Houlton Band no less restrictive than those provided by this subchapter and the Maine Implementing Act for land or natural resources to be held in trust for the Passamaquoddy Tribe or Penobscot Nation;

(B) provisions limiting the power of the State of Maine to condemn such lands that are no less restrictive than the provisions of this subchapter and the Maine Implementing Act that apply to the Passamaquoddy Indian Territory and the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation;

(C) consistent with the trust and restricted character of the lands, provisions satisfactory to the State and the Houlton Band concerning:

(i) payments by the Houlton Band in lieu of payment of property taxes on land or natural resources held in trust for the

band, except that the band shall not be deemed to own or use any property for governmental purposes under the Maine Implementing Act;

(ii) payments of other fees and taxes to the extent imposed on the Passamaquoddy Tribe and the Penobscot Nation under the Maine Implementing Act, except that the band shall not be deemed to be a governmental entity under the Maine Implementing Act or to have the powers of a municipality under the Maine Implementing Act;

(iii) securing performance of obligations of the Houlton Band arising after the effective date of agreement between the State and the band.

(D) provisions on the location of these lands.

Except as set forth in this subsection, such agreement shall not include any other provisions regarding the enforcement or application of the laws of the State of Maine. Within one year of October 10, 1980, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the status of these negotiations.

**(e) Acquisitions contingent upon agreement as to identity of land or natural resources to be sold, purchase price and other terms of sale; condemnation proceedings by Secretary; other acquisition authority barred for benefit of Indians in State of Maine**

Notwithstanding the provisions of sections 257 and 258a of title 40, the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner. Except for the provisions of this subchapter, the United States shall have no other authority to acquire lands or natural resources in trust for the benefit of Indians or Indian nations, or tribes, or bands of Indians in the State of Maine.

**(f) Expenditures for Tribe, Nation, or Band contingent upon documentary relinquishment of claims**

The Secretary may not expend on behalf of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians any sums deposited in the funds established pursuant to the subsections (a) and (c) of this section unless and until he finds that authorized officials of the respective tribe, nation, or band have executed appropriate documents relinquishing all claims to the extent provided by sections 1723, 1730, and 1731 of this title and by section 6213 of the Maine Implementing Act, including stipulations to the final judicial dismissal with prejudice of their claims.

**(g) Transfer limitations of section 177 of this title inapplicable to Indians in State of Maine; restraints on alienation as provided in section; transfers invalid ab initio except for: State and Federal condemnations, assignments, leases, sales, rights-of-way, and exchanges**

(1) The provisions of section 177 of this title shall not be applicable to (A) the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation, or tribe or band of Indians in the State of Maine, or (B) any land or natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsections (d)(4) and (g)(2) of this section, such land or natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary.

(2) Except as provided in paragraph (3) of this subsection, any transfer of land or natural resources within Passamaquoddy Indian Territory or Penobscot Indian Territory, except (A) takings for public uses consistent with the Maine Implementing Act, (B) takings for public uses pursuant to the laws of the United States, or (C) transfers of individual Indian use assignments from one member of the Passamaquoddy Tribe or Penobscot Nation to another member of the same tribe or nation, shall be void ab initio and without any validity in law or equity.

(3) Land or natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory or held in trust for the benefit of the Houlton Band of Maliseet Indians may, at the request of the respective tribe, nation, or band, be—

(A) leased in accordance with sections 415 to 415d of this title;

(B) leased in accordance with sections 396a to 396g of this title;

(C) sold in accordance with section 407 of this title;

(D) subjected to rights-of-way in accordance with sections 323 to 328 of this title;

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the affected tribe, nation, or band, as the circumstances require, so long as payment does not exceed 25 per centum of the total value of the interests in land to be transferred by the tribe, nation, or band, and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

**(h) Agreement on terms for management and administration of land or natural resources**

Land or natural resources acquired by the Secretary in trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the Secretary in accordance with section 450f of this title, or other existing law.

**(i) Condemnation of trust or restricted land or natural resources within Reservations: substitute land or monetary proceeds as medium of compensation; condemnation of trust land without Reservations: use of compensation for reinvestment in trust or fee held acreage, certification of acquisitions; State condemnation proceedings: United States as necessary party, exhaustion of State administrative remedies, judicial review in Federal courts, removal of action**

(1) Trust or restricted land or natural resources within the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. In the event that the compensation for the taking is in the form of substitute land to be added to the reservation, such land shall become a part of the reservation in accordance with the Maine Implementing Act and upon notification to the Secretary of the location and boundaries of the substitute land. Such substitute land shall have the same trust or restricted status as the land taken. To the extent that the compensation is in the form of monetary proceeds, it shall be deposited and reinvested as provided in paragraph (2) of this subsection.

(2) Trust land of the Passamaquoddy Tribe or the Penobscot Nation not within the Passamaquoddy Reservation or Penobscot Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. The proceeds from any such condemnation shall be deposited in the land acquisition fund established by subsection (c) of this section and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the respective tribe or nation shall designate, with the approval of the United States, and within thirty days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land not acquired in trust shall be held in fee by the respective tribe or nation. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired.

(3) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

**(j) Federal condemnation under other laws; deposit and reinvestment of compensatory proceeds**

When trust or restricted land or natural resources of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet In-

dians are condemned pursuant to any law of the United States other than this subchapter, the proceeds paid in compensation for such condemnation shall be deposited and reinvested in accordance with subsection (i)(2) of this section. (Pub. L. 96-420, § 5, Oct. 10, 1980, 94 Stat. 1788.)

#### HOULTON BAND OF MALISEET INDIANS SUPPLEMENTARY CLAIMS SETTLEMENT

Pub. L. 99-566, Oct. 27, 1986, 100 Stat. 3184, provided: "That this Act may be cited as the 'Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986'.

#### "DEFINITIONS

"SEC. 2. For purposes of this Act—

"(1) The term 'Houlton Band Tax Fund' means the fund established under section 3.

"(2) The term 'Houlton Band trust land' means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Houlton Band of Maliseet Indians in accordance with section 5(d) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(d); 94 Stat. 1789).

"(3) The term 'amended Maine Implementing Act' means the Maine Implementing Act (defined in section 3(e) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(e); 94 Stat. 1787)) as amended by—

"(A) the 'Act to amend the Maine Implementing Act with respect to the Houlton Band of Maliseet Indians', enacted by the State of Maine in chapter 675 of the Public Laws of 1981, and

"(B) the State of Maine in chapter 672 of the Public Laws of 1985.

"(4) The term 'Secretary' means the Secretary of the Interior.

"(5) The term 'Houlton Band of Maliseet Indians' has the meaning given to such term by section 3(a) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1722(a)).

#### "HOULTON BAND TAX FUND

"SEC. 3. (a) There is hereby established in the United States Treasury a fund to be known as the Houlton Band Tax Fund in which shall be deposited \$200,000 in accordance with the provisions of this Act.

"(b)(1) Income accrued on the land acquisition fund established for the Houlton Band of Maliseet Indians pursuant to subsections (c) and (d)(1) of section 5 of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) shall be transferred to the Houlton Band Tax Fund. No transfer shall be made under this subsection if such transfer would diminish such land acquisition fund to a balance of less than \$900,000.

"(2) Whenever funds are transferred to the Houlton Band Tax Fund pursuant to paragraph (1), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the full amount of \$200,000 has been transferred to the Houlton Band Tax Fund.

"(c) The Secretary shall manage the Houlton Band Tax Fund in accordance with the first section of the Act of June 24, 1938 (25 U.S.C. 162a), and shall utilize the principal and interest of such Fund only as provided in subsection (d) and for no other purpose.

"(d) Notwithstanding the provisions of section 3727 of title 31, United States Code, the Secretary shall pay out of the Houlton Band Tax Fund all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

"(1) for which the Houlton Band of Maliseet Indians are determined to be liable under the terms of section 6208-A(2) of the amended Maine Implementing Act,

"(2) which are final and not subject to further administrative or judicial review, and

"(3) which have been certified by the Commissioner of Finance and Administration of the State of Maine

as valid claims (within the meaning of section 6208-A(2) of the amended Maine Implementing Act) that meet the requirements of this subsection.

"(e) Notwithstanding any other provision of law, if—  
 "(1) the Houlton Band of Maliseet Indians is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest or penalties thereon, and

"(2) there are insufficient funds in the Houlton Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full, the deficiency shall be paid by the Houlton Band of Maliseet Indians only from income-producing property owned by such Band which is not held in trust for such Band by the United States, and such Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

"(f) The Secretary shall, after consultation with the Commissioner of Finance and Administration of the State of Maine and the Houlton Band of Maliseet Indians, prescribe written procedures governing the filing and payment of claims under this section and section 6208-A of the amended Maine Implementing Act.

#### "HOULTON BAND TRUST LAND

"SEC. 4. (a) Subject to the provisions of section 3 of this Act, the Secretary is authorized and directed to expend, at the request of the Houlton Band of Maliseet Indians, the principal of, and income accruing on, the land acquisition fund established for such Band under subsections (c) and (d)(1) of section 5 of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724; 94 Stat. 1789) for the purposes of acquiring land or natural resources for such Band and for no other purpose. Land or natural resources so acquired within the State of Maine for such Band shall be held in trust by the United States for the benefit of such Band.

"(b)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be alienated only by—

"(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c),

"(B) takings for public use pursuant to the laws of the United States,

"(C) transfers authorized by section 5(g)(3) of the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1724(g)(3); 94 Stat. 1791), or

"(D) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

"(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Houlton Band of Maliseet Indians to another member of such Band.

"(c)(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Houlton Band of Maliseet Indians may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act [Oct. 27, 1986].

"(2) The consent of the United States is hereby given to the State of Maine to further amend the amended Maine Implementing Act for the purpose of embodying the agreement described in paragraph (1).

"(d)(1) Lands and natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians only if the Secretary has, at any time prior to such acquisition—

"(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Houlton Band Tax Fund contains \$200,000, and

“(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 3(f).

“(2)(A) No land or natural resources may be acquired by the Secretary for the Houlton Band of Maliseet Indians until the Secretary—

“(i) files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired by the Secretary, or

“(ii) files with the Secretary of State of the State of Maine a certified copy of any instrument setting forth the location and boundaries of the land or natural resources to be acquired.

“(B) For purposes of subparagraph (A), filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1722, 1723, 1725, 1728, 1733 of this title.

### § 1725. State laws applicable

#### (a) Civil and criminal jurisdiction of the State and the courts of the State; laws of the State

Except as provided in section 1727(e) and section 1724(d)(4) of this title, all Indians, Indian nations, or tribes or bands of Indians in the State of Maine, other than the Passamaquoddy Tribe, the Penobscot Nation, and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein.

#### (b) Jurisdiction of State of Maine and utilization of local share of funds pursuant to the Maine Implementing Act; Federal laws or regulations governing services or benefits unaffected unless expressly so provided; report to Congress of comparative Federal and State funding for Maine and other States

(1) The Passamaquoddy Tribe, the Penobscot Nation, and their members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

(2) Funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized, consistent with the purposes for which they are appropriated, by the Passamaquoddy Tribe and the Penobscot Nation to provide part or all of the local share as provided by the Maine Implementing Act.

(3) Nothing in this section shall be construed to supersede any Federal laws or regulations governing the provision or funding of services or benefits to any person or entity in the State of

Maine unless expressly provided by this subchapter.

(4) Not later than October 30, 1982, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the Federal and State funding provided the Passamaquoddy Tribe and Penobscot Nation compared with the respective Federal and State funding in other States.

#### (c) Federal criminal jurisdiction inapplicable in State of Maine under certain sections of title 18; effective date: publication in Federal Register

The United States shall not have any criminal jurisdiction in the State of Maine under the provisions of sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18. This provision shall not be effective until sixty days after the publication of notice in the Federal Register as required by section 1723(d) of this title.

#### (d) Capacity to sue and be sued in State of Maine and Federal courts; section 1362 of title 28 applicable to civil actions; immunity from suits provided in Maine Implementing Act; assignment of quarterly income payments from settlement fund to judgment creditors for satisfaction of judgments

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations, or tribes or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts; and section 1362 of title 28 shall be applicable to civil actions brought by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians: *Provided, however,* That the Passamaquoddy Tribe, the Penobscot Nation, and their officers and employees shall be immune from suit to the extent provided in the Maine Implementing Act.

(2) Notwithstanding the provisions of section 3727 of title 31, the Secretary shall honor valid final orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after October 10, 1980, against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to receive income out of the next quarterly payment from the settlement fund established pursuant to section 1724(a) of this title and out of such future quarterly payments as may be necessary until the judgment is satisfied.

#### (e) Federal consent for amendment of Maine Implementing Act; nature and scope of amendments; agreement respecting State jurisdiction over Houlton Band lands

(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: *Provided,* That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the en-



forcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.

**(f) Indian jurisdiction separate and distinct from State civil and criminal jurisdiction**

The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

**(g) Full faith and credit**

The Passamaquoddy Tribe, the Penobscot Nation, and the State of Maine shall give full faith and credit to the judicial proceedings of each other.

**(h) General laws and regulations affecting Indians applicable, but special laws and regulations inapplicable, in State of Maine**

Except as otherwise<sup>1</sup> provided in this subchapter, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

**(i) Eligibility for Federal special programs and services regardless of reservation status**

As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall

be treated in the same manner as other federally recognized tribes for the purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation. Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Houlton Band of Maliseet Indians in or near the town of Houlton, Maine, shall be eligible for such programs and services without regard to the existence of a reservation or of the residence of such member on or near a reservation.

(Pub. L. 96-420, §6, Oct. 10, 1980, 94 Stat. 1793; Pub. L. 97-428, §3, Jan. 8, 1983, 96 Stat. 2268.)

**CODIFICATION**

In subsec. (d)(2), "section 3727 of title 31" substituted for "section 3477 of the Revised Statutes, as amended" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

**AMENDMENTS**

1983—Subsec. (i). Pub. L. 97-428 inserted provision that notwithstanding any other provision of law authorizing provision of special programs and services by United States to Indians because of their status as Indians, any member of Houlton Band of Maliseet Indians in or near town of Houlton, Maine, be eligible for such programs and services without regard to existence of a reservation or of residence of such member on or near a reservation.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 13d, 1724, 1727 of this title.

**§ 1726. Tribal organization**

**(a) Appropriate instrument in writing; filing of organic governing document**

The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians may each organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the tribe, nation, or band when each is acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this subchapter and the Maine Implementing Act. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall each file with the Secretary a copy of its organic governing document and any amendments thereto.

**(b) Membership**

For purposes of benefits under this subchapter and the recognition extended the Houlton Band of Maliseet Indians, no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseets, except persons who, as of October 10, 1980, are enrolled members on the band's existing membership roll, and direct lineal descendants of such members. Membership in the band shall be subject to such further qualifications as may be provided by the band in its organic governing

<sup>1</sup> So in original. Probably should be "otherwise".

document or amendments thereto subject to the approval of the Secretary.

(Pub. L. 96-420, § 7, Oct. 10, 1980, 94 Stat. 1795.)

**§ 1727. Implementation of Indian Child Welfare Act**

**(a) Petition for assumption of exclusive jurisdiction; approval by Secretary**

The Passamaquoddy Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069) [25 U.S.C. 1901 et seq.]. Before the respective tribe or nation may assume such jurisdiction over Indian child custody proceedings, the respective tribe or nation shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by sections 108(a)–(c) of said Act [25 U.S.C. 1918(a)–(c)].

**(b) Consideration and determination of petition by Secretary**

Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with sections 108(b) and (c) of the Act [25 U.S.C. 1918(b) and (c)].

**(c) Actions or proceedings within existing jurisdiction unaffected**

Assumption or jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

**(d) Reservations within section 1903(10) of this title**

For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot Indian Reservation are “reservations” within section 4(10) of the Act [25 U.S.C. 1903(10)].

**(e) Indian tribe within section 1903(8) of this title; State jurisdiction over child welfare unaffected**

For the purposes of this section, the Houlton Band of Maliseet Indians is an “Indian tribe” within section 4(8) of the Act [25 U.S.C. 1903(8)], provided, that nothing in this subsection shall alter or effect the jurisdiction of the State of Maine over child welfare matters as provided in section 1725(e)(2) of this title.

**(f) Assumption determinative of exclusive jurisdiction**

Until the Passamaquoddy Tribe or the Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over Indian child custody proceedings of that tribe or nation.

(Pub. L. 96-420, § 8, Oct. 10, 1980, 94 Stat. 1795.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978 (92 Stat. 3069), referred to in subsec. (a), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1725 of this title.

**§ 1728. Federal financial aid programs unaffected by payments under subchapter**

**(a) Eligibility of State of Maine for participation without regard to payments to designated Tribe, Nation, or Band under subchapter**

No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the terms of this subchapter shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

**(b) Eligibility of designated Tribe, Nation, or Band for benefits without regard to payments from State of Maine except in considering actual financial situation in determining need of applicant**

The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States: *Provided*, That to the extent that eligibility for the benefits of such a financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

**(c) Availability of settlement or land acquisition funds not income or resources or otherwise used to affect federally assisted housing programs or Federal financial assistance or other Federal benefits**

The availability of funds or distribution of funds pursuant to section 1724 of this title may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be eligible or entitled.

(Pub. L. 96-420, § 9, Oct. 10, 1980, 94 Stat. 1795.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13d of this title.

**§ 1729. Deferral of capital gains**

For the purpose of subtitle A of title 26, any transfer by private owners of land purchased or otherwise acquired by the Secretary with monies from the land acquisition fund whether in the name of the United States or of the respective tribe, nation or band shall be deemed to be an involuntary conversion within the meaning of section 1033 of title 26.

(Pub. L. 96-420, § 10, Oct. 10, 1980, 94 Stat. 1796; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

## AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

**§ 1730. Transfer of tribal trust funds held by the State of Maine**

All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of October 10, 1980, shall be transferred to the Secretary to be held in trust for the respective tribe or nation and shall be added to the principal of the settlement fund allocated to that tribe or nation. The receipt of said State funds by the Secretary shall constitute a full discharge of any claim of the respective tribe or nation, its predecessors and successors in interest, and its members, may have against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective tribe and nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds.

(Pub. L. 96-420, § 11, Oct. 10, 1980, 94 Stat. 1796.)

## CODIFICATION

“October 10, 1980,” substituted in text for “the effective date of this Act”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.

**§ 1731. Other claims discharged by this subchapter**

Except as expressly provided herein, this subchapter shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of any Indian nation, or tribe or band of Indians or the United States as trustee therefor, including those actions now pending in the United States District Court for the District of Maine captioned United States of America against State of Maine (Civil Action Nos. 1966-ND and 1969-ND).

(Pub. L. 96-420, § 12, Oct. 10, 1980, 94 Stat. 1796.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.

**§ 1732. Limitation of actions**

Except as provided in this subchapter, no provision of this subchapter shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this subchapter.

(Pub. L. 96-420, § 13, Oct. 10, 1980, 94 Stat. 1797.)

**§ 1733. Authorization of appropriations**

There is hereby authorized to be appropriated \$81,500,000 for the fiscal year beginning October 1, 1980, for transfer to the funds established by section 1724 of this title.

(Pub. L. 96-420, § 14, Oct. 10, 1980, 94 Stat. 1797.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1724 of this title.

**§ 1734. Inseparability of provisions**

In the event that any provision of section 1723 of this title is held invalid, it is the intent of Congress that the entire subchapter be invalidated. In the event that any other section or provision of this subchapter is held invalid, it is the intent of Congress that the remaining sections of this subchapter shall continue in full force and effect.

(Pub. L. 96-420, § 15, Oct. 10, 1980, 94 Stat. 1797.)

**§ 1735. Construction**

**(a) Law governing; special legislation**

In the event a conflict of interpretation between the provisions of the Maine Implementing Act and this subchapter should emerge, the provisions of this subchapter shall govern.

**(b) General legislation**

The provisions of any Federal law enacted after October 10, 1980, for the benefit of Indians, Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this subchapter and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.

(Pub. L. 96-420, § 16, Oct. 10, 1980, 94 Stat. 1797.)

**SUBCHAPTER III—FLORIDA INDIAN LAND CLAIMS SETTLEMENT**

**§ 1741. Congressional findings and declaration of policy**

Congress finds and declares that—

(1) there is pending before the United States District Court for the Southern District of Florida a lawsuit by the Miccosukee Indian Tribe which involves certain lands within the State of Florida;

(2) the pendency of such lawsuit may result in economic hardships for residents of the State of Florida by clouding the titles to lands in the State, including lands not now involved in the lawsuits;

(3) the pendency of such lawsuit also has clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a

water supply for the residents of South Florida;

(4) the State of Florida and the Miccosukee Indian Tribe have executed agreements for the purposes of resolving tribal land claims and settling such lawsuit, which agreements require implementing legislation by the Congress of the United States and the Legislature of the State of Florida; and

(5) Congress shares with the parties to such agreements a desire to settle such Indian claims in the State of Florida without additional cost to the United States.

(Pub. L. 97-399, § 2, Dec. 31, 1982, 96 Stat. 2012.)

#### SHORT TITLE

Section 1 of Pub. L. 97-399 provided: "That this Act [enacting this subchapter] may be cited as the 'Florida Indian Land Claims Settlement Act of 1982'."

### § 1742. Definitions

For purposes of this subchapter—

(1) The term "Miccosukee Tribe" means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 476 of this title and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(2) The term "State of Florida" means the State of Florida, its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions, and the South Florida Water Management District.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources including but not limited to minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(5) The term "lawsuit" means the action in the United States District Court for the Southern District of Florida, entitled *Miccosukee Tribe of Indians of Florida against State of Florida, et al.*, Case No. 79-253-CIV-JWK.

(6) The term "Lease Agreement" means that perpetual lease granted by the State of Florida to the Miccosukee Tribe, involving a specifically described area in South Florida, title to which is held by the State of Florida and in which the Miccosukee Tribe is granted certain express rights and interests.

(7) The term "settlement funds" means those amounts of money which the State of Florida has agreed to pay to the Miccosukee Tribe under the Settlement Agreement in partial consideration for the settlement of the lawsuit and the extinguishment of rights to all potential or unsettled claims which the Miccosukee Tribe may have to lands or natural resources in the State of Florida.

(8) The term "Settlement Agreement" means those documents entitled "Settlement Agreement between the Miccosukee Tribe and the State of Florida" executed on April 16, 1982, by representatives of the State of Florida and representatives of the Miccosukee Tribe and filed with the secretary of state of the

State of Florida which incorporate the Lease Agreement described in paragraph (6) of this section.

(9) The term "transfer" includes but is not limited to any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance, or any event or events that resulted in a change of possession or control of lands or natural resources.

(Pub. L. 97-399, § 3, Dec. 31, 1982, 96 Stat. 2012.)

### § 1743. Findings by the Secretary

Section 1744 of this title shall not take effect until the Secretary finds that the following events have occurred:

(1) the State of Florida has enacted legislation appropriating sufficient money to pay, and in fact has paid, the settlement funds to the Miccosukee Tribe;

(2) the State of Florida and the Miccosukee Tribe have executed the Lease Agreement; and

(3) the State of Florida has enacted appropriate legislation to carry out its commitments under paragraph 1b of the Settlement Agreement between the State of Florida and the Miccosukee Tribe and has given the waiver specified in paragraph 4d of such Agreement.

(Pub. L. 97-399, § 4, Dec. 31, 1982, 96 Stat. 2013.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1744 of this title.

### § 1744. Approval of prior transfers and extinguishment of claims and aboriginal title involving Florida Indians

#### (a) Publication of findings; consequences

If the Secretary finds that the State of Florida has satisfied the conditions set forth in section 1743 of this title, he shall publish such findings and the Settlement Agreement in the Federal Register, and upon such publication—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the Settlement Agreement between the State of Florida and the Miccosukee Tribe shall be of full force and effect on the terms and conditions therein stated; and

(2) the transfers, waivers, releases, relinquishments, and other commitments validated by paragraph (1) of this subsection and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) of this section shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including but not limited to the Act of July 22, 1790 (1 Stat. 137) and any amendments thereto and all subsequent versions thereof), and Congress does hereby approve any such transfers effective as of the date of such transfers.

#### (b) Scope of applicability to claims, transfers, etc.

(1) All claims to lands within the State of Florida based upon aboriginal title by the

Miccosukee Tribe, or any predecessor or successor in interest, are hereby extinguished, and any transfer of lands or natural resources located anywhere within the State of Florida, including but not limited to transfers pursuant to the statute or treaty of or with any State or the United States, by, from, or on behalf of the Miccosukee Tribe, or any predecessor or successor in interest, shall be deemed to be in full force and effect: *Provided, however*, That nothing herein shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as “excepted interests” in paragraph 3c of the Settlement Agreement between the State of Florida and the Miccosukee Tribe.

(2) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Miccosukee Tribe, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including but not limited to claims for trespass damages or claims for use and occupancy, shall be regarded as extinguished as of the date of the transfer.

(3) Notwithstanding any other provision of this subsection, nothing in this subchapter shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State of Florida by any individual Indian—

(A) which is based on use and occupancy, or

(B) which was acquired under Federal or State law,

and which is not derived from or through the Miccosukee Tribe, or its predecessor or predecessors in interest.

(Pub. L. 97-399, § 5, Dec. 31, 1982, 96 Stat. 2013.)

#### REFERENCES IN TEXT

Act of July 22, 1790, referred to in subsec. (a)(2), is act July 22, 1790, ch. 33, 1 Stat. 137, which was not classified to the Code.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1743, 1749 of this title.

### § 1745. Special provisions for Miccosukee Tribe

#### (a) Exemption of leasehold from State and local taxes

The leasehold interest granted the Miccosukee Tribe under the Lease Agreement shall be exempt from all State and local taxes.

#### (b) Treatment of leasehold as Indian reservation

The lands leased to the Miccosukee Tribe pursuant to the Lease Agreement shall be treated as if such lands constituted a federally recognized Indian reservation solely for purposes of determining the eligibility of the Miccosukee Tribe and its members for any Federal health, education, employment, economic assistance, revenue sharing, law enforcement over Indians, or social welfare programs, or any other similar Federal program for which Indians are eligible

because of their status as Indians and of their residence on an Indian reservation.

#### (c) Power of State of Florida to diminish leasehold interests for public purposes

The State of Florida, through exercise of the power of eminent domain, may take or diminish any interest granted to the Miccosukee Tribe under the Lease Agreement only for a public purpose and upon payment of just compensation, but such taking or diminution shall not require the approval of Congress or any executive officer of the United States.

#### (d) Impairment of benefits received by State of Florida under other provisions

Nothing in this subchapter or in any grant of leasehold rights by the State of Florida under the Lease Agreement shall affect or otherwise impair in any adverse manner any benefits received by the State of Florida under the Act of September 2, 1937 (16 U.S.C. 669 et seq.), or the Act of August 9, 1950 (16 U.S.C. 777 et seq.).

(Pub. L. 97-399, § 6, Dec. 31, 1982, 96 Stat. 2014.)

#### REFERENCES IN TEXT

Act of September 2, 1937, referred to in subsec. (d), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, popularly known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§ 669 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 669 of Title 16 and Tables.

Act of August 9, 1950, referred to in subsec. (d), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, popularly known as the Federal Aid in Fish Restoration Act and also as the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§ 777 et seq.) of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 777 of Title 16 and Tables.

### § 1746. Scope of rights or interests granted to Miccosukee Tribe; scope of civil and criminal jurisdiction of State of Florida

Nothing in this subchapter shall grant to the Miccosukee Tribe any greater rights or interests in the leased area other than those expressly set forth in the Lease Agreement, and, notwithstanding any other provision of this subchapter, nothing in this subchapter shall diminish, modify, or otherwise affect the extent of the civil and criminal jurisdiction of the State of Florida in the leased area.

(Pub. L. 97-399, § 7, Dec. 31, 1982, 96 Stat. 2015.)

### § 1747. Transfer of lands to United States

#### (a) Acceptance by Secretary

The Secretary is authorized and directed to accept the transfer to the United States, to be held in trust for the use and benefit of the Miccosukee Tribe of Indians of Florida, of the lands authorized to be conveyed to the Miccosukee Tribe by section 285.061, Florida Statutes, and the lands described in Dedication Deed No. 23228 from the Trustees of the Internal Improvement Trust Fund subject to the provisions of section 285.061, Florida Statutes, and of this section.

#### (b) Jurisdiction of State of Florida

(1) Notwithstanding the conveyance of any lands by the State of Florida to the United

States in trust for the Miccosukee Tribe of Indians of Florida, the assumption of jurisdiction in favor of the State of Florida contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953 (67 Stat. 588), as in effect prior to its repeal, shall continue in full force and effect on such lands unless the State shall retrocede such civil or criminal jurisdiction in whole or in part.

(2)(A) The laws of Florida relating to alcoholic beverages (chapters 561, 562, 563, 564, and 565, Florida Statutes), gambling (chapter 849, Florida Statutes), sale of cigarettes (chapter 210, Florida Statutes), and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State and the State shall have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(B) Nothing in subparagraph (A) shall permit the exercise of jurisdiction by the State of Florida as to any matter to which section 1162(b) of title 18 or section 1360(b) of title 28 applies.

**(c) Transfer of lands as subject to existing leases, etc.; additional water rights**

(1) Any transfer of lands under this section shall be subject to all existing leases, easements, and rights-of-way, and all the rights, easements, and reservations in favor of the Central and Southern Florida Flood Control District (now the South Florida Water Management District) and shall not increase, diminish, modify, or otherwise affect the extent to which chapter 373, Florida Statutes, and its successor laws, have force and effect within such lands.

(2) Any transfer of lands under this section shall not confer upon the Miccosukee Tribe, or upon the lands within the reservation, any additional water rights.

(Pub. L. 97-399, § 8, Dec. 31, 1982, 96 Stat. 2015.)

**REFERENCES IN TEXT**

Section 7 of Act August 15, 1953 (67 Stat. 588), as in effect prior to its repeal, referred to in subsec. (b)(1), is section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 590, which was set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure, and was repealed by Pub. L. 90-284, title IV, § 403(b), Apr. 11, 1968, 82 Stat. 79.

**§ 1748. Limitations of actions**

Notwithstanding any other provision of law, any action to contest the constitutionality of this subchapter shall be barred unless the complaint is filed within one hundred and eighty days after December 31, 1982. An action to contest the constitutionality of this subchapter may only be brought in the United States District Court for the Southern District of Florida.

(Pub. L. 97-399, § 9, Dec. 31, 1982, 96 Stat. 2016.)

**§ 1749. Revocation of settlement**

In the event the Settlement Agreement between the Miccosukee Tribe and the State of Florida is ever invalidated—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Miccosukee Tribe in paragraph 3 of the

Settlement Agreement shall no longer be of any force or effect,

(2) section 1744 of this title shall be inapplicable to the lands, interests in lands, or natural resources of the Miccosukee Tribe and its members as if never enacted, and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the Miccosukee Tribe otherwise effected by section 1744 of this title shall be void ab initio.

(Pub. L. 97-399, § 10, Dec. 31, 1982, 96 Stat. 2016.)

**SUBCHAPTER IV—CONNECTICUT INDIAN LAND CLAIMS SETTLEMENT**

**§ 1751. Congressional findings**

The Congress finds that—

(a) there is pending before the United States District Court for the District of Connecticut a civil action entitled “Western Pequot Tribe of Indians against Holdridge Enterprises Incorporated, et al., Civil Action Numbered H76-193 (D. Conn.),” which involves Indian claims to certain public and private lands within the town of Ledyard, Connecticut;

(b) the pendency of this lawsuit has placed a cloud on the titles to much of the land in the town of Ledyard, including lands not involved in the lawsuit, which has resulted in severe economic hardships for the residents of the town;

(c) the Congress shares with the State of Connecticut and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims;

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the State of Connecticut have reached an agreement which requires implementing legislation by the Congress of the United States and the Legislature of the State of Connecticut;

(e) the Western Pequot Tribe, as represented as of October 18, 1983, by the Mashantucket Pequot Tribal Council, is the sole successor in interest to the aboriginal entity generally known as the Western Pequot Tribe which years ago claimed aboriginal title to certain lands in the State of Connecticut; and

(f) the State of Connecticut is contributing twenty acres of land owned by the State of Connecticut to fulfill this subchapter. The State of Connecticut will construct and repair three sections of paved or gravel roadways within the reservation of the Tribe. The State of Connecticut has provided special services to the members of the Western Pequot Tribe residing within its borders. The United States has provided few, if any, special services to the Western Pequot Tribe and has denied that it had jurisdiction over or responsibility for said Tribe. In view of the provision of land by the State of Connecticut, the provision of paved roadways by the State of Connecticut, and the provision of special services by the State of Connecticut without being required to do so by Federal law, it is the intent of Congress that the State of Connecticut not be required to otherwise contribute directly to this claims settlement.

(Pub. L. 98-134, § 2, Oct. 18, 1983, 97 Stat. 851.)

#### CODIFICATION

In subsec. (e), “October 18, 1983” substituted for “the time of the passage of this Act”, meaning the date of approval of Pub. L. 98-134.

#### SHORT TITLE

Section 1 of Pub. L. 98-134 provided: “That this Act [enacting this subchapter] may be cited as the ‘Mashantucket Pequot Indian Claims Settlement Act’.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1752 of this title.

### § 1752. Definitions

For the purposes of this subchapter—

(1) The term “Tribe” means the Mashantucket Pequot Tribe (also known as the Western Pequot Tribe) as identified by chapter 832 of the Connecticut General Statutes and all its predecessors and successors in interest. The Mashantucket Pequot Tribe is represented, as of October 18, 1983, by the Mashantucket Pequot Tribal Council.

(2) The term “land or natural resources” means any real property or natural resources, or any interest in or right involving any real property or natural resources, including without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(3) The term “private settlement lands” means—

(A) the eight hundred acres, more or less, of privately held land which are identified by a red outline on a map filed with the secretary of the State of Connecticut in accordance with the agreement referred to in section 1751(d) of this title, and

(B) the lands known as the Cedar Swamp which are adjacent to the Mashantucket Pequot Reservation as it exists on October 18, 1983. Within thirty days of October 18, 1983, the secretary of the State of Connecticut shall transmit to the Secretary a certified copy of said map.

(4) The term “settlement lands” means—

(A) the lands described in sections 2(a) and 3 of the Act To Implement the Settlement of the Mashantucket Pequot Indian Land Claims as enacted by the State of Connecticut and approved on June 9, 1982, and

(B) the private settlement lands.

(5) The term “Secretary” means the Secretary of the Interior.

(6) The term “transfer” means any transaction involving, or any transaction the purpose of which was to effect, a change in title to or control of any land or natural resources, and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources, including any sale, grant, lease, allotment, partition, or conveyance, whether pursuant to a treaty, compact, or statute of a State or otherwise.

(7) The term “reservation” means the existing reservation of the Tribe as defined by chapter 824 of the Connecticut General Stat-

utes and any settlement lands taken in trust by the United States for the Tribe.

(Pub. L. 98-134, § 3, Oct. 18, 1983, 97 Stat. 852.)

#### CODIFICATION

In pars. (1) and (3)(B), “October 18, 1983” substituted for “the date of the enactment of this Act” and “the enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

### § 1753. Extinguishment of aboriginal titles and Indian claims

#### (a) Approval and ratification of prior transfers

Any transfer before October 18, 1983, from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before October 18, 1983, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer.

#### (b) Extinguishment of title

By virtue of the approval and ratification of a transfer of land or natural resources effected by subsection (a) of this section, any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian, Indian nation, or tribe or band of Indians, to any land or natural resources the transfer of which was approved and ratified by subsection (a) of this section shall be regarded as extinguished as of the date of such transfer.

#### (c) Extinguishment of claims

By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, any claim (including any claim for damages for trespass or for use and occupancy) by, or on behalf of, the Tribe or any member of the Tribe or by any other Indian, Indian nation, or tribe or band of Indians, against the United States, any State or subdivision thereof or any other person which is based on—

(1) any interest in or right involving any land or natural resources the transfer of which was approved and ratified by subsection (a) of this section, or

(2) any aboriginal title to land or natural resources the extinguishment of which was effected by subsection (b) of this section,

shall be regarded as extinguished as of the date of any such transfer.

#### (d) Savings provision

Nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

**(e) Effective date; notice**

(1) This section shall take effect upon the appropriation of \$900,000 as authorized under section 1754(e) of this title.

(2) The Secretary shall publish notice of such appropriation in the Federal Register when the funds are deposited in the fund established under section 1754(a) of this title.

(Pub. L. 98-134, § 4, Oct. 18, 1983, 97 Stat. 852.)

## REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137, 138), referred to in subsec. (a), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

## CODIFICATION

In subsec. (a), “October 18, 1983” substituted for “the date of enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1754, 1760 of this title.

**§ 1754. Mashantucket Pequot Settlement Fund****(a) Establishment and administration**

There is hereby established in the United States Treasury an account to be known as the Mashantucket Pequot Settlement Fund (hereinafter referred to in this section as the “Fund”). The Fund shall be held in trust by the Secretary for the benefit of the Tribe and administered in accordance with this subchapter.

**(b) Expenditure of Fund; private settlement lands; economic development plan; acquisition of land and natural resources**

(1) The Secretary is authorized and directed to expend, at the request of the Tribe, the Fund together with any and all income accruing to such Fund in accordance with this subsection.

(2) Not less than \$600,000 of the Fund shall be available until January 1, 1985, for the acquisition by the Secretary of private settlement lands. Subsequent to January 1, 1985, the Secretary shall determine whether and to what extent an amount less than \$600,000 has been expended to acquire private settlement lands and shall make that amount available to the Tribe to be used in accordance with the economic development plan approved pursuant to paragraph (3).

(3)(A) The Secretary shall disburse all or part of the Fund together with any and all income accruing to such Fund (excepting the amount reserved in paragraph (2)) according to a plan to promote the economic development of the Tribe.

(B) The Tribe shall submit an economic development plan to the Secretary and the Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing and with particularity, the reasons for his disapproval.

(C) The Secretary may not agree to terms which provide for the investment of the Fund in a manner inconsistent with section 162a of this title, unless the Tribe first submits a specific

waiver of liability on the part of the United States for any loss which may result from such an investment.

(D) The Tribe may, with the approval of the Secretary, alter the economic development plan subject to the conditions set forth in subparagraph (B).

(4) Under no circumstances shall any part of the Fund be distributed to any member of the Tribe unless pursuant to the economic development plan approved by the Secretary under paragraph (3).

(5) As the Fund or any portion thereof is disbursed by the Secretary in accordance with this section, the United States shall have no further trust responsibility to the Tribe or its members with respect to the sums paid, any subsequent expenditures of these sums, or any property other than private settlement lands or services purchased with these sums.

(6) Until the Tribe has submitted and the Secretary has approved the terms of the use of the Fund, the Secretary shall fix the terms for the administration of the portion of the Fund as to which there is no agreement.

(7) Lands or natural resources acquired under this subsection which are located within the settlement lands shall be held in trust by the United States for the benefit of the Tribe.

(8) Land or natural resources acquired under this subsection which are located outside of the settlement lands shall be held in fee by the Mashantucket Pequot Tribe, and the United States shall have no further trust responsibility with respect to such land and natural resources. Such land and natural resources shall not be subject to any restriction against alienation under the laws of the United States.

(9) Notwithstanding the provisions of section 257 of title 40 and section 258a of title 40, the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner.

**(c) Transfer of private settlement land as involuntary conversion**

For the purpose of subtitle A of title 26, any transfer of private settlement lands to which subsection (b) of this section applies shall be deemed to be an involuntary conversion within the meaning of section 1033 of title 26.

**(d) Documentation of relinquishment of tribal claims**

The Secretary may not expend on behalf of the Tribe any sums deposited in the Fund established pursuant to subsection (a) of this section unless and until he finds that authorized officials of the Tribe have executed appropriate documents relinquishing all claims to the extent provided by sections 1753 and 1759 of this title, including stipulations to the final judicial dismissal with prejudice of its claims.



**(e) Authorization of appropriation**

There is authorized to be appropriated \$900,000 to be deposited in the Fund.

(Pub. L. 98-134, § 5, Oct. 18, 1983, 97 Stat. 853; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

## AMENDMENTS

1986—Subsec. (c). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1753 of this title.

**§ 1755. State jurisdiction over reservation**

Notwithstanding the provision relating to a special election in section 406 of the Act of April 11, 1968 (82 Stat. 80; 25 U.S.C. 1326), the reservation of the Tribe is declared to be Indian country subject to State jurisdiction to the maximum extent provided in title IV of such Act [25 U.S.C. 1321 et seq.].

(Pub. L. 98-134, § 6, Oct. 18, 1983, 97 Stat. 855.)

## REFERENCES IN TEXT

Act of April 11, 1968, referred to in text, is Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, as amended, known as the Civil Rights Act of 1968. Title IV of Pub. L. 90-284 is classified generally to subchapter III (§ 1321 et seq.) of chapter 15 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42, The Public Health and Welfare, and Tables.

**§ 1756. Practice and procedure****(a) Constitutionality**

Notwithstanding any other provision of law, the constitutionality of this subchapter may not be drawn into question in any action unless such question has been raised in—

(1) a pleading contained in a complaint filed before the end of the one-hundred-and-eighty-day period beginning on October 18, 1983, or

(2) an answer contained in a reply to a complaint before the end of such period.

**(b) Jurisdiction**

Notwithstanding any other provision of law, exclusive jurisdiction of any action in which the constitutionality of this subchapter is drawn into question is vested in the United States District Court for the District of Connecticut.

**(c) Removal of actions**

Any action to which subsection (a) of this section applies and which is brought in the court of any State may be removed by the defendant to the United States District Court for the District of Connecticut.

**(d) Jurisdictional acts; implied consent to sue the United States**

Except as provided in this subchapter, no provision of this subchapter shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this subchapter.

(Pub. L. 98-134, § 7, Oct. 18, 1983, 97 Stat. 855.)

## CODIFICATION

In subsec. (a)(1), “October 18, 1983” substituted for “the date of the enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

**§ 1757. Restriction against alienation**

(a) Subject to subsection (b) of this section, lands within the reservation which are held in trust by the Secretary for the benefit of the Tribe or which are subject to a Federal restraint against alienation at any time after October 18, 1983, shall be subject to the laws of the United States relating to Indian lands, including section 177 of this title.

(b) Notwithstanding subsection (a) of this section, the Tribe may lease lands for any term of years to the Mashantucket Pequot Housing Authority, or any successor in interest to such Authority.

(Pub. L. 98-134, § 8, Oct. 18, 1983, 97 Stat. 855.)

## CODIFICATION

In subsec. (a), “October 18, 1983” substituted for “the date of the enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

**§ 1758. Extension of Federal recognition and privileges****(a) Applicability of United States laws and regulations**

Notwithstanding any other provision of law, Federal recognition is extended to the Tribe. Except as otherwise provided in this subchapter, all laws and regulations of the United States of general application to Indians or Indian nations, tribes or bands of Indians which are not inconsistent with any specific provision of this subchapter shall be applicable to the Tribe.

**(b) Filing of organic governing document and amendments**

The Tribe shall file with the Secretary a copy of its organic governing document and any amendments thereto. Such instrument must be consistent with the terms of this subchapter and the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claim as enacted by the State of Connecticut and approved June 9, 1982.

**(c) Eligibility for services and benefits**

Notwithstanding any other provision of law, the Tribe and members of the Tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes as of October 18, 1983.

(Pub. L. 98-134, § 9, Oct. 18, 1983, 97 Stat. 855.)

## CODIFICATION

In subsec. (c), “October 18, 1983” substituted for “the date of enactment of this Act”, meaning the date of approval of Pub. L. 98-134.

**§ 1759. General discharge and release of State of Connecticut**

Except as expressly provided herein, this subchapter shall constitute a general discharge and release of all obligations of the State of Con-

necticut and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of the Tribe or the United States as trustee therefor.

(Pub. L. 98-134, § 10, Oct. 18, 1983, 97 Stat. 856.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1754 of this title.

### § 1760. Separability

In the event that any provision of section 1753 of this title is held invalid, it is the intent of Congress that the entire subchapter be invalidated. In the event that any other section or provision of this subchapter is held invalid, it is the intent of Congress that the remaining sections of this subchapter shall continue in full force and effect.

(Pub. L. 98-134, § 11, Oct. 18, 1983, 97 Stat. 856.)

#### SUBCHAPTER V—MASSACHUSETTS INDIAN LAND CLAIMS SETTLEMENT

### § 1771. Congressional findings and declaration of policy

The Congress hereby finds and declares that—

(1) there is pending before the United States District Court for the District of Massachusetts a lawsuit that involves Indian claims to certain public lands within the town of Gay Head, Massachusetts;

(2) the pendency of this lawsuit has resulted in severe economic hardships for the residents of the town of Gay Head by clouding the titles to much of the land in the town, including land not involved in the lawsuit;

(3) the Congress shares with the Commonwealth of Massachusetts and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claim;<sup>1</sup>

(4) the parties to the lawsuit and others interested in settlement of Indian land claims within the Commonwealth of Massachusetts executed a Settlement Agreement which, to become effective, requires implementing legislation by the Congress of the United States and the General Court of the Commonwealth of Massachusetts;

(5) the town of Gay Head has agreed to contribute approximately 50 percent of the land involved in this settlement;

(6) the State of Massachusetts has agreed to provide up to \$2,250,000 to be used for the purchase of land to be held in trust by the Secretary for the use and benefit of the Wampanoag Tribal Council of Gay Head, Inc.; and

(7) the Secretary has acknowledged the existence of the Wampanoag Tribal Council of Gay Head, Inc. as an Indian tribe and Congress hereby ratifies and confirms that existence as an Indian tribe with a government to government relationship with the United States.

(Pub. L. 100-95, § 2, Aug. 18, 1987, 101 Stat. 704.)

#### EFFECTIVE DATE

Section 11 of Pub. L. 100-95 provided that:

<sup>1</sup> So in original. Probably should be “claims;”.

“(a) IN GENERAL.—Except as provided in subsection (b), this Act [enacting this subchapter] shall take effect upon the date of enactment [Aug. 18, 1987].

“(b) EXCEPTION.—Section 4 [25 U.S.C. 1771b] shall take effect upon the date on which the title of all of the private settlement lands provided for in this Act to the Wampanoag Tribal Council of Gay Head, Inc. is transferred. The fact of such transfer, and the date thereof, shall be certified and recorded by the Secretary of the Commonwealth of Massachusetts.”

#### SHORT TITLE

Section 1 of Pub. L. 100-95 provided that: “This Act [enacting this subchapter] may be cited as the ‘Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987.’”

### § 1771a. Gay Head Indian claims settlement fund

#### (a) Fund established

There is hereby established within the Treasury of the United States a fund to be known as the “Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund”. Amounts in the fund shall be available to the Secretary to carry out the purposes of this subchapter.

#### (b) Authorization for appropriation

There is hereby authorized to be appropriated \$2,250,000 for such fund to remain available until expended.

#### (c) State contribution required

Amounts may be expended from the fund only upon deposit by the State of Massachusetts into the fund of an amount equal to that amount to be expended by the United States so that both the United States and the State of Massachusetts bear one-half of the cost of the acquisition of lands under section 1771d of this title.

(Pub. L. 100-95, § 3, Aug. 18, 1987, 101 Stat. 704.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1771d, 1771f of this title.

### § 1771b. Approval of prior transfers and extinguishment of aboriginal title and claims of Gay Head Indians

#### (a) Approval of prior transfers

(1) Any transfer before August 18, 1987, of land or natural resources now located anywhere within the United States from, by, or on behalf of the Wampanoag Tribal Council of Gay Head, Inc., or (2) any transfer before August 18, 1987, by, from, or on behalf of any Indian, Indian nation, or tribe or band of Indians, of any land or natural resources located anywhere within the town of Gay Head, Massachusetts, including any transfer pursuant to any statute of the State, and the incorporation of the town of Gay Head, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof). Any such transfer and any transfer in implementation of this subchapter, shall be deemed to have been made with the consent and approval of Congress as of the date of such transfer.

**(b) Extinguishment of aboriginal title**

Any aboriginal title held by the Wampanoag Tribal Council of Gay Head, Inc. or any other entity presently or at any time in the past known as the Gay Head Indians, to any land or natural resources the transfer of which is consented to and approved in subsection (a) of this section is considered extinguished as of the date of such transfer.

**(c) Extinguishment of claims arising from prior transfers or extinguishment of aboriginal title**

Any claim (including any claim for damages for use and occupancy) by the Wampanoag Tribal Council of Gay Head, Inc., the Gay Head Indians, or any other Indian, Indian nation, or tribe or band of Indians against the United States, any State or political subdivision of a State, or any other person which is based on—

(1) any transfer of land or natural resources which is consented to and approved in subsection (a) of this section, or

(2) any aboriginal title to land or natural resources the transfer of which is consented to and approved in subsection (b) of this section,

is extinguished as of the date of any such transfer.

**(d) Personal claims not affected**

No provision of this section shall be construed to offset or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(Pub. L. 100-95, § 4, Aug. 18, 1987, 101 Stat. 705.)

## REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), referred to in subsec. (a), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

## EFFECTIVE DATE

Section effective upon the date on which title of all of private settlement lands provided for in this subchapter to the Wampanoag Tribal Council of Gay Head, Inc. is transferred, with fact of such transfer, and date thereof, to be certified and recorded by Secretary of the Commonwealth of Massachusetts, see section 11(b) of Pub. L. 100-95, set out as a note under section 1771 of this title.

**§ 1771c. Conditions precedent to Federal purchase of settlement lands****(a) Initial determination of State and local action**

No action shall be taken by the Secretary under section 1771d of this title before the Secretary publishes notice in the Federal Register of the determination by the Secretary that—

(1) the Commonwealth of Massachusetts has enacted legislation which provides that—

(A) the town of Gay Head, Massachusetts, is authorized to convey to the Secretary to be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands and the Cook lands subject to the conditions and limitations set forth in the Settlement Agreement; and

(B) the Wampanoag Tribal Council of Gay Head, Inc. shall have the authority, after

consultation with appropriate State and local officials, to regulate any hunting by Indians on the settlement lands that is conducted by means other than firearms or crossbow to the extent provided in, and subject to the conditions and limitations set forth in, the Settlement Agreement;

(2) the Wampanoag Tribal Council of Gay Head, Inc., has submitted to the Secretary an executed waiver or waivers of the claims covered by the Settlement Agreement all claims extinguished by this subchapter, and all claims arising because of the approval of transfers and extinguishment of titles and claims under this subchapter; and

(3) the town of Gay Head, Massachusetts, has authorized the conveyance of the public settlement lands and the Cook Lands<sup>1</sup> to the Secretary in trust for the Wampanoag Tribal Council of Gay Head, Inc.

**(b) Reliance upon Attorney General of Massachusetts**

In making the findings required in subsection (a) of this section, the Secretary may rely upon the opinion of the Attorney General of the Commonwealth of Massachusetts.

(Pub. L. 100-95, § 5, Aug. 18, 1987, 101 Stat. 705.)

**§ 1771d. Purchase and transfer of settlement lands****(a) Purchase of private settlement lands**

The Secretary is authorized and directed to expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., \$2,125,000 to acquire the private settlement lands. At the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall not purchase lots 705, 222, and 528 of the private settlement lands, but, at the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall acquire in lieu thereof such other lands that are contiguous to the remaining private settlement lands. Upon the purchase of such contiguous lands, those lands shall be subject to the same restrictions and benefits as the private settlement lands.

**(b) Payment for survey and appraisal**

The Secretary is authorized and directed to cause a survey of the public settlement lands to be made within 60 days of acquiring title to the public settlement lands. The Secretary shall reimburse the Native American Rights Fund and the Gay Head Taxpayers Association for an appraisal of the private settlement lands done by Paul O'Leary dated May 1, 1987. Such funds as may be necessary may be withdrawn from the Fund<sup>1</sup> established in section 1771a(a) of this title and may be used for the purpose of conducting the survey and providing reimbursement for the appraisal.

**(c) Acquisition of additional lands**

The Secretary shall expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., any remaining funds not required by sub-

<sup>1</sup> So in original. Probably should not be capitalized.

<sup>1</sup> So in original. Probably should not be capitalized.

section (a) or (b) of this section to acquire any additional lands that are contiguous to the private settlement lands. Any lands acquired pursuant to this section, and any other lands which are on and after August 12, 1987, held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to this subchapter, the Settlement Agreement and other applicable laws. Any after acquired land held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to the same benefits and restrictions as apply to the most analogous land use described in the Settlement Agreement.

**(d) Transfer and survey of land to Wampanoag Tribal Council**

Any right, title, or interest to lands acquired by the Secretary under this section, and the title to public settlement lands conveyed by the town of Gay Head, shall be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. and shall be subject to this subchapter, the Settlement Agreement, and other applicable laws.

**(e) Proceedings authorized to acquire or to perfect title**

The Secretary is authorized to commence such condemnation proceedings as the Secretary may determine to be necessary—

- (1) to acquire or perfect any right, title, or interest in any private settlement land, and
- (2) to condemn any interest adverse to any ostensible owner of such land.

**(f) Public settlement lands held in trust**

The Secretary is authorized to accept and hold in trust for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands as described in section 1771f(7) of this title immediately upon the effective date of this Act.

**(g) Application**

The terms of this section shall apply to land in the town of Gay Head. Any land acquired by the Wampanoag Tribal Council of Gay Head, Inc., that is located outside the town of Gay Head shall be subject to all the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts.

**(h) Spending authority**

Any spending authority (as defined in section 651(c)(2) of title 2) provided in this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 100-95, § 6, Aug. 18, 1987, 101 Stat. 706.)

REFERENCES IN TEXT

For the effective date of this Act, referred to in subsec. (f), see section 11 of Pub. L. 100-95, set out as a note under section 1771 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1771a, 1771c, 1771h of this title.

**§ 1771e. Jurisdiction over settlement lands; restraint on alienation**

**(a) Limitation on Indian jurisdiction over settlement lands**

The Wampanoag Tribal Council of Gay Head, Inc., shall not have any jurisdiction over non-

tribal members and shall not exercise any jurisdiction over any part of the settlement lands in contravention of this subchapter, the civil regulatory and criminal laws of the Commonwealth of Massachusetts, the town of Gay Head, Massachusetts, and applicable Federal laws.

**(b) Subsequent holder bound to same terms and conditions**

Any tribe or tribal organization which acquires any settlement land or any other land that may now or in the future be owned by or held in trust for any Indian entity in the town of Gay Head, Massachusetts, from the Wampanoag Tribal Council of Gay Head, Inc. shall hold such beneficial interest to such land subject to the same terms and conditions as are applicable to such lands when held by such council.

**(c) Reservations of right and authority relating to settlement lands**

No provision of this subchapter shall affect or otherwise impair—

(1) any authority to impose a lien or temporary seizure on the settlement lands as provided in the State Implementing Act;

(2) the authority of the Secretary to approve leases in accordance with sections 415 to 415d of this title; or

(3) the legal capacity of the Wampanoag Tribal Council of Gay Head, Inc. to transfer the settlement lands to any tribal entity which may be organized as a successor in interest to Wampanoag Tribal Council of Gay Head, Inc. or to transfer—

(A) the right to use the settlement lands to its members,

(B) any easement for public or private purposes in accordance with the laws of the Commonwealth of Massachusetts or the ordinances of the town of Gay Head, Massachusetts, or

(C) title to the West Basin Strip to the town of Gay Head, Massachusetts, pursuant to the terms of the Settlement Agreement.

**(d) Exemption from State assessment**

Any land held in trust by the Secretary for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. shall be exempt from taxation or lien or “in lieu of payment” or other assessment by the State or any political subdivision of the State to the extent provided by the Settlement Agreement: *Provided, however*, That such taxation or lien or “in lieu of payment” or other assessment will only apply to lands which are zoned and utilized as commercial: *Provided further*, That this section shall not be interpreted as restricting the Tribe from entering into an agreement with the town of Gay Head to reimburse such town for the delivery of specific public services on the tribal lands.

(Pub. L. 100-95, § 7, Aug. 18, 1987, 101 Stat. 707.)

REFERENCES IN TEXT

Sections 415 to 415d of this title, referred to in subsec. (c)(2), was in the original “the Act entitled ‘An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases’, approved August 9, 1955 (25 U.S.C. 415

et seq.)", which enacted sections 415 to 415d of this title and amended section 396 of this title.

## § 1771f. Definitions

For the purposes of this subchapter:

### (1) Cook lands

The term "Cook lands" means the lands described in paragraph (5) of the Settlement Agreement.

### (2) Wampanoag Tribal Council of Gay Head, Inc.

The term "Wampanoag Tribal Council of Gay Head, Inc." means the tribal entity recognized by the Secretary of the Interior as having a government to government relationship with the United States. The Wampanoag Tribal Council of Gay Head, Inc. is the sole and legitimate tribal entity which has a claim under the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), to land within the town of Gay Head. The membership of the Wampanoag Tribal Council of Gay Head, Inc., includes those 521 individuals who have been recognized by the Secretary of the Interior as being members of the Wampanoag Tribal Council of Gay Head, Inc., and such Indians of Gay Head ancestry as may be added from time to time by the governing body of the Wampanoag Tribal Council of Gay Head, Inc.: *Provided*, That nothing in this section shall prevent the voluntary withdrawal from membership in the Wampanoag Tribal Council of Gay Head, Inc., pursuant to procedures established by the Tribe. The governing body of the Wampanoag Tribal Council of Gay Head, Inc. is hereby authorized to act on behalf of and bind the Wampanoag Tribal Council of Gay Head, Inc., in all matters related to carrying out this subchapter.

### (3) Fund

The term "fund" means the Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund established under section 1771a of this title.

### (4) Land or natural resources

The term "land or natural resources" means any real property or natural resources or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

### (5) Lawsuit

The term "lawsuit" means the action entitled Wampanoag Tribal Council of Gay Head, and others versus Town of Gay Head, and others (C.A. No. 74-5826-McN (D. Mass.)).

### (6) Private settlement lands

The term "private settlement lands" means approximately 177 acres of privately held land described in paragraph 6 of the Settlement Agreement.

### (7) Public settlement lands

The term "public settlement lands" means the lands described in paragraph (4) of the Settlement Agreement.

### (8) Settlement lands

The term "settlement lands" means the private settlement lands and the public settlement lands.

### (9) Secretary

The term "Secretary" means the Secretary of the Interior.

### (10) Settlement Agreement

The term "Settlement Agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Gay Head, Massachusetts, Indian Land Claims," executed as of November 22, 1983, and renewed thereafter by representatives of the parties to the lawsuit, and as filed with the Secretary of the Commonwealth of Massachusetts.

### (11) State implementing act

The term "State implementing act" means legislation enacted by the Commonwealth of Massachusetts conforming to the requirements of this subchapter and the requirements of the Massachusetts Constitution.

### (12) Transfer

The term "transfer" includes—

- (A) any sale, grant, lease, allotment, partition, or conveyance,
- (B) any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or
- (C) any event or events that resulted in a change of possession or control of land or natural resources.

### (13) West Basin Strip

The term "West Basin Strip" means a strip of land along the West Basin which the Wampanoag Tribal Council is authorized to convey, under paragraph (11) of the Settlement Agreement, to the town of Gay Head.

(Pub. L. 100-95, § 8, Aug. 18, 1987, 101 Stat. 708.)

#### REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), referred to in par. (2), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1771d of this title.

## § 1771g. Applicability of State law

Except as otherwise expressly provided in this subchapter or in the State Implementing Act, the settlement lands and any other land that may now or hereafter be owned by or held in trust for any Indian tribe or entity in the town of Gay Head, Massachusetts, shall be subject to the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts and the town of Gay Head, Massachusetts (including those laws and regulations which prohibit or regulate the conduct of bingo or any other game of chance).

(Pub. L. 100-95, § 9, Aug. 18, 1987, 101 Stat. 709.)

## § 1771h. Limitations of action; jurisdiction

Notwithstanding any other provision of law, any action to contest the constitutionality or

validity under law of this subchapter shall be barred unless the complaint is filed within thirty days after August 18, 1987. Exclusive original jurisdiction over any such action and any proceedings under section 1771d(e) of this title is hereby vested in the United States District Court of<sup>1</sup> the District of Massachusetts.

(Pub. L. 100-95, §10, Aug. 18, 1987, 101 Stat. 710.)

#### § 1771i. Eligibility

For the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes, because of their status as Indians, members of this tribe residing on Martha's Vineyard, Massachusetts, shall be deemed to be living on or near an Indian reservation.

(Pub. L. 100-95, §12, Aug. 18, 1987, 101 Stat. 710.)

### SUBCHAPTER VI—FLORIDA INDIAN (SEMINOLE) LAND CLAIMS SETTLEMENT

#### § 1772. Findings and policy

Congress finds and declares that—

(1) there is pending before the United States District Court for the southern district of Florida a lawsuit by the Seminole Tribe which involves certain lands within the State and there are also claims by the tribe to other areas of Florida by virtue of an 1839 Executive order of the President and by right of non-extinguishment of aboriginal possession which has been asserted but not filed in court;

(2) the pendency of this lawsuit and these claims may result in economic hardships for residents of the State by clouding the titles to lands in the State, including lands not now involved in the lawsuit;

(3) the pendency of this lawsuit and these claims also have clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of south Florida;

(4) the State, the district, and the tribe have executed agreements for the purposes of resolving tribal land claims and settling the lawsuit—

(A) which include conveyance of land and payment of consideration to the tribe; and

(B) which require implementing legislation by the Congress of the United States and the Legislature of the State of Florida;

(5) Congress shares with the parties to such agreements a desire to settle these Indian claims in the State of Florida without additional cost to the United States;

(6) there is considerable uncertainty as to the nature and extent of the water rights of the tribe, and that continued controversy over this should be settled by agreement; and

(7) the State, the district, and the tribe have entered into a compact which, if approved by Congress and the Florida Legislature, creates

specifically defined water rights in lieu of the undefined water rights claimed by the tribe.

(Pub. L. 100-228, §2, Dec. 31, 1987, 101 Stat. 1556.)

#### EFFECTIVE DATE

Section 10 of Pub. L. 100-228 provided that: "This Act [enacting this subchapter] shall take effect upon the date of its enactment [Dec. 31, 1987]."

#### SHORT TITLE

Section 1 of Pub. L. 100-228 provided that: "This Act [enacting this subchapter] may be cited as the 'Seminole Indian Land Claims Settlement Act of 1987'."

#### § 1772a. Definitions

For purposes of this subchapter—

(1) The term "tribe" means the Seminole Tribe of Indians of Florida or Seminole Tribe of Florida, a tribe of American Indians recognized by the United States and organized under section 476 of this title and recognized by the State of Florida pursuant to chapter 285, Florida Statutes, and its successors.

(2) The term "State" means the State of Florida and its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions and their successors.

(3) The term "district" means the South Florida Water Management District, the agency of the State of Florida created by chapter 25270, laws of Florida (1949) to operate pursuant to chapter 373 Florida Statutes, and its successors.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(6) The term "Settlement Agreement" means the instrument—

(A) executed by the Seminole Tribe, the State of Florida, and the South Florida Water Management District; and

(B) which will be presented for approval by all three parties to the United States District Court for the southern district of Florida for the purpose of terminating the lawsuit entitled Seminole Tribe of Indians of Florida,<sup>1</sup> v. State of Florida, et al., (Docket No. 78-6116-CIV), and for the extinguishment of rights to all potential or unsettled claims which the tribe may have to lands or natural resources in the State and the purchase of certain tribal interests in real property.

(7) The term "settlement funds" means those funds which the State of Florida and the South Florida Water Management District have agreed to pay to the tribe under the Settlement Agreement.

(8) The term "compact" means the Compact incorporated in the Settlement Agreement between the tribe, the State, and the district, which specifically defines the nature and extent of Seminole water rights and the manner

<sup>1</sup> So in original. Probably should be "for".

<sup>1</sup> So in original. The comma probably should not appear.

of their use within the confines of the area of the district.

(Pub. L. 100-228, §3, Dec. 31, 1987, 101 Stat. 1557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

**§ 1772b. Findings by Secretary**

(a) Section 1772c of this title shall not take effect until 180 days after December 31, 1987, or the date the last of the events described in subsection (b) of this section have occurred and the Secretary so finds, whichever date occurs later.

(b) The events referred to in subsection (a) of this section are—

(1) the State and district pay settlement funds pursuant to the terms of the Settlement Agreement for the case captioned Seminole Tribe of Indians of Florida v. State of Florida et al., or equivalent consideration by land exchange to the tribe; and

(2) the State enacts appropriate legislation to carry out the commitments under the Settlement Agreement including the compact between the State, the district and the tribe, and the State and the district have given the waiver specified in paragraph 5c of such agreement.

(Pub. L. 100-228, §4, Dec. 31, 1987, 101 Stat. 1557.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772c of this title.

**§ 1772c. Approval of prior transfers and extinguishment of claims and aboriginal title involving Florida Indians**

**(a) Approval of Settlement Agreement; effect of approval**

(1) Effective on December 31, 1987, the Congress does hereby approve the Settlement Agreement, including the compact, and any exhibits attached thereto.

(2) Subject to the provisions of section 1772b of this title, the Secretary shall publish findings required by section 1772b of this title and the Settlement Agreement in the Federal Register, and upon such publication—

(A) the transfers, waivers, releases, relinquishments and other commitments made by the tribe in the Settlement Agreement with the State and the district, including the compact provided for in the Settlement Agreement, shall be in full force and effect on the terms and conditions stated in such settlement, and

(B) the transfers, waivers, releases, relinquishments and other commitments validated by subparagraph (A) and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) of this section shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137).

**(b) Extinguishment of claims based on aboriginal title**

(1)(A) Subject to subparagraph (B), all claims to lands within the State based upon aboriginal title by the tribe or any predecessor or successor in interest, are hereby extinguished. Any transfer of lands or natural resources located anywhere within the State, including transfers pursuant to a statute or treaty with any State or the United States, by, from, or on behalf of the tribe or any predecessor or successor in interest, shall be deemed to be in full force and effect, as provided in subsection (a)(2) of this section.

(B) Nothing in this paragraph shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as “excepted interests” in paragraph 4a of the Settlement Agreement between the tribe, State and the district.

(2)(A) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, the State or subdivision thereof, or any other person or entity, by the tribe or any predecessor or successor in interest, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including claims for trespass damages or claims for use and occupancy, shall be extinguished as of the date of the transfer.

(B) The United States shall not be liable directly or indirectly for any claim or cause of action arising from the approval of the Settlement Agreement and compact or exhibits attached thereto.

(3) Nothing in this subchapter shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State based on use and occupancy or acquired under Federal or State law by any individual Indian which is not derived from or through the tribe, its predecessor or predecessors in interest, or some other American Indian tribe.

(4) Any Indian, Indian nation, or tribe of Indians, other than the Seminole Tribe as defined in section 1772a(1) of this title, or any predecessor or successor in interest, or any member thereof, whose transfer of lands or natural resources is approved or whose aboriginal title or claims is extinguished by paragraph (1) or (2) of this subsection may, within a period of one year after publication of the Secretary's finding pursuant to subsection (a) of this section, bring an action against the State and the United States in the United States District Court for the southern district of Florida. Such action shall be in lieu of a suit against any other person, agency, or political subdivision on a cause of action which may have existed in the absence of this subsection.

**(c) Construction of subsection (a) and section 1772e**

Neither subsection (a) of this section nor section 1772e of this title—

(1) enacts present or future laws of the State as Federal law,

(2) grants consent to any future changes in the Settlement Agreement or compact that

could impose any obligation or liability on the United States, or

(3) commits the United States to finance any project or activity not otherwise authorized by Federal law.

(Pub. L. 100-228, §5, Dec. 31, 1987, 101 Stat. 1558.)

#### REFERENCES IN TEXT

The Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137), referred to in subsec. (a)(2)(B), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1772b, 1772g of this title.

### § 1772d. Special provisions for Seminole Tribe

#### (a) Acceptance of land by Secretary in trust for Seminole Tribe

Notwithstanding any clouds on title, the Secretary is authorized and directed, as soon as practicable after December 31, 1987, to accept the transfer to the United States, to be held in trust and as a reservation for the use and benefit of the Seminole Tribe of Florida, the approximate 15 sections of land being described as follows:

Beginning at the southwest corner of section 31, township 48 south, Range 35 east; thence easterly along the south border of sections 31, 32 and 33, township 48 south, Range 35 east, to the westernmost boundary of the levee 28 works in section 33, township 48 south, Range 35 east; thence continuing north along the westernmost boundary of the levee 28 works to the point at which the westernmost boundary of the levee 4 works intersects the southernmost boundary of the levee 4 works in section 9, township 48 south, Range 35 east; thence continuing westerly along the southernmost boundary of the levee 4 works to the point at which the southernmost boundary of the levee 4 works intersects the dividing line between township 48 south, Range 35 east and township 48 south, Range 34 east at the Broward County and Hendry County line; and thence continuing south along said line to the point of beginning; said lands situate, lying and being in Broward County, Florida.

#### (b) Survey of Seminole Federal Reservations in Florida

Before the expiration of the 3-year period beginning on December 31, 1987, the Secretary shall—

(1) conduct a cadastral survey of those portions of the Seminole Federal Reservations in Florida not previously surveyed by the Department of the Interior, including all lands taken into trust as reservations under the authority of this subchapter;

(2) publish the correct legal descriptions of the Seminole Reservations in the Federal Register within 180 days after the survey is completed.

#### (c) Acceptance of land in future by Secretary in trust for Seminole Tribe

If, pursuant to paragraph 6 of the Settlement Agreement, there is a subsequent agreement be-

tween the tribe, the State, and the district providing that lands exchanged with the tribe or acquired by the tribe may be taken into Federal trust as a reservation for the tribe, the Secretary shall accept the transfer of such lands to the United States, to be held in trust for the use and benefit of the tribe pursuant to the terms and conditions of the subsequent agreement unless—

(1) the total amount of land previously taken in trust under this subsection exceeds the amount of land transferred to the State and Water District by the tribe under the Settlement Agreement;

(2) the Secretary determines in writing that either the size, location, or condition of the land, or the terms and conditions under which it is transferred would place an unreasonable burden on the United States as trustee;

(3) the land is not in Florida; or

(4) the land is not agricultural in nature.

#### (d) Civil and criminal jurisdiction over lands acquired by United States in trust for Seminole Tribe

(1) Notwithstanding the acquisition of any land under subsection (a) or (c) of this section by the United States in trust for the tribe, the assumption of jurisdiction in favor of the State contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953,<sup>1</sup> (67 Stat. 588; Public Law 280), shall continue in full force and effect on such lands unless the United States accepts a retrocession by the State of such civil or criminal jurisdiction in whole or in part under section 1323 of this title. The laws of Florida relating to alcoholic beverages, gambling, sale of cigarettes, and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State. The State, with respect to the transferred lands, shall also have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(2) Nothing in this subsection shall be construed as permitting the exercise of the above jurisdiction by the State regarding matters to which section 1162(b) of title 18 and section 1360(b) of title 28 apply.

(3) The scope of tribal sovereignty over transferred lands, with the specific exceptions of law relating to cigarettes, gambling and alcohol described in this subsection, shall be as required by applicable law with regard to existing tribal lands held in reservation or Federal trust status. Such transfer shall not confer upon the tribe, or upon the lands within the reservation, any additional water rights. Tribal water rights shall be deemed to be defined in the compact.

(Pub. L. 100-228, §6, Dec. 31, 1987, 101 Stat. 1559.)

#### REFERENCES IN TEXT

Section 7 of the Act of August 15, 1953, referred to in subsec. (d)(1), is section 7 of act Aug. 15, 1953, ch. 505, 67 Stat. 590, which was set out as a note under section 1360 of Title 28, Judiciary and Judicial Procedure, and was repealed by Pub. L. 90-284, title IV, §403(b), Apr. 11, 1968, 82 Stat. 79.

<sup>1</sup> So in original. The comma probably should not appear.



**§ 1772e. Water rights compact**

The compact defining the scope of Seminole water rights and their utilization by the tribe shall have the force and effect of Federal law for the purposes of enforcement of the rights and obligations of the tribe.

(Pub. L. 100-228, § 7, Dec. 31, 1987, 101 Stat. 1560.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 1772c of this title.

**§ 1772f. Judicial review**

(a) Notwithstanding any other provision of law, any action to contest the constitutionality of this subchapter shall be barred unless the complaint is filed within 180 days after December 31, 1987. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the southern district of Florida.

(b) Notwithstanding any present immunity from suit enjoyed by any of the parties, jurisdiction regarding any controversy arising under the Settlement Agreement or compact or private agreement between the tribe and any third party entered into under authority of the compact is hereby vested in the United States District Court for the southern district of Florida. Such jurisdiction shall be exclusive except that the court shall not have jurisdiction to award money damages against the State, the district or the tribe. Proceedings in the district court under this section shall be expedited consistent with sound judicial discretion.

(Pub. L. 100-228, § 8, Dec. 31, 1987, 101 Stat. 1561.)

**§ 1772g. Revocation of settlement**

In the event the Settlement Agreement or any part thereof is ever invalidated—

(1) the transfers, waivers, releases, relinquishments and any other commitments made by the State, the tribe, or the district in the Settlement Agreement shall no longer be of any force or effect;

(2) section 1772c of this title shall be inapplicable as if such section was never enacted with respect to the lands, interests in lands, or natural resources of the tribe and its members; and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the tribe otherwise effected by section 1772c of this title shall be void ab initio.

(Pub. L. 100-228, § 9, Dec. 31, 1987, 101 Stat. 1561.)

**SUBCHAPTER VII—WASHINGTON INDIAN (PUYALLUP) LAND CLAIMS SETTLEMENT****§ 1773. Congressional findings and purpose****(a) Findings**

The Congress finds and declares that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) Disputes over certain land claims of the Puyallup Tribe and other matters, including—

(A) ownership of the Commencement Bay tidelands and areas of former Puyallup Riverbed, lands within the Puyallup Tribe's Treaty Reservation, or intended reservation boundaries,

(B) railroad and other rights-of-way,

(C) control of fisheries resource and habitat,

(D) jurisdiction over law enforcement, environment, navigation, and authority and control in the areas of land use,

(E) business regulation and zoning,

have resulted in difficult community relations and negative economic impacts affecting both the Tribe and non-Indian parties.

(3) Some of the significant historical events that led to the present circumstances include—

(A) the negotiation of the Treaty of Medicine Creek in December 1854, by the Puyallup Indians and others, by which the tribes ceded most of their territories but reserved certain lands and rights, including fishing rights;

(B) the Executive Order of 1857 creating the Puyallup Indian Reservation;

(C) the Executive Order of 1873, clarifying and extending the Puyallup Reservation in the Washington Territory;

(D) the March 11, 1891, Report of the Puyallup Indian Commission on allotments and the 1896 report by a second Puyallup Indian Commission describing the problems with sales of allotted lands; and

(E) the 1909 District Court for Tacoma decision of the United States of America against J.M. Ashton and the 1910 Supreme Court decision of United States of America against J.M. Ashton.

(4) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve certain problems and claims and to derive certain benefits.

(5) There is a recognition that any final resolution of pending disputes through a process of litigation would take many years and entail great expense to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the access, ownership, and jurisdictional status of issues in question; and seriously impair long-term economic planning and development for all parties.

(6) To advance the goals of Federal policy of Indian self-determination and to carry out the trust responsibility of the United States, and to advance the Federal policy of international trade and economic development, and in recognition of the Federal policy of settling these conflicts through comprehensive settlement agreements, it is appropriate that the United States participate in the funding and implementation of the Settlement Agreement.

**(b) Purpose**

Therefore, it is the purpose of this subchapter—

(1) to approve, ratify, and confirm the agreement entered into by the non-Indian settlement parties and the Puyallup Tribe of Indians,

- (2) to authorize and direct the Secretary to implement the terms of such agreement, and
- (3) to authorize the actions and appropriations necessary to implement the provisions of the Settlement Agreement and this subchapter.

(Pub. L. 101-41, §2, June 21, 1989, 103 Stat. 83.)

#### SHORT TITLE

Section 1 of Pub. L. 101-41 provided that: "This Act [enacting this subchapter] may be cited as the 'Puyallup Tribe of Indians Settlement Act of 1989'."

### § 1773a. Resolution of Puyallup tribal land claims

#### (a) Relinquishment

In accordance with the Settlement Agreement and in return for the land and other benefits derived from the Settlement Agreement and this subchapter, the Tribe, and the United States as trustee for the Tribe and its members, relinquish all claims to tidelands, submerged lands, and any other lands, and including any mineral claims and nonfisheries water rights connected with such relinquished land, known or unknown, within the State of Washington, subject to the exceptions referred to in subsection (b) of this section.

#### (b) Exception for certain lands

Subsection (a) of this section shall not apply to the following:

- (1) 12.5 acres of former riverbed land confirmed to the Tribe in Puyallup Tribe of Indians against Port of Tacoma (717 F. 2d 1251 (1983)), which land shall be subject to the terms and conditions described in the Settlement Agreement and document 6 of the Technical Documents.

(2) All land to which record title in the Tribe or the United States in trust for the Tribe or its members derives from a patent issued by the United States or from a conveyance of tideland by the State of Washington. For the purposes of this paragraph, the term "record title" means title documented by identifiable conveyances reflected in those records imparting constructive notice of conveyances according to the laws of the State (RCW chapters 65.04 and 65.08) and the final judgments of State or Federal courts.

(3) Certain land recognized to be owned on August 27, 1988, by the Tribe or the United States in trust for the Tribe within the Indian Addition to the city of Tacoma, Washington, as recorded in book 7 of plats at pages 30 and 31, records of Pierce County, Washington, as follows:

- (A) Land owned on August 27, 1988:
  - (i) Portions of tracts 2, 5, 6, 10, and 11.
  - (ii) Tract 7 (school site).
  - (iii) Tract 8 (church site).
  - (iv) Tract 9 (cemetery site).
  - (v) Approximately 38 lots in blocks 8150, 8249, 8350, and 8442, inclusive.

(B) Land, wherever located, added to the above list of parcels on or before December 1, 1988, in accordance with paragraph A.3. of section IX of the Settlement Agreement.

- (4) The lands transferred to the Tribe pursuant to the Settlement Agreement.

(5) The rights to underlying lands or the reversionary interest of the Tribe, if any, in the Union Pacific or Burlington Northern rights-of-way across the 1873 Survey Area, where the property over which they were granted belonged, at the time of the grant, to the United States in trust for the Tribe or to the Tribe.

(6) The submerged lands as of August 27, 1988, in the Puyallup River within the 1873 Survey Area below the mean high water line.

#### (c) Personal claims

Nothing in this section or in the Settlement Agreement shall be construed to impair, eliminate, or in any way affect the title of any individual Indian to land held by such individual in fee or in trust, nor shall it affect the personal claim of any individual Indian as to claims regarding past sales of allotted lands or any claim which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(Pub. L. 101-41, §3, June 21, 1989, 103 Stat. 84.)

#### EFFECTIVE DATE

Section 13 of Pub. L. 101-41 provided that: "Sections 3 and 9 [this section and section 1773g of this title] shall take effect on the effective date of the Settlement Agreement and when all terms are met as stated under section X of the Settlement Agreement."

### § 1773b. Settlement lands

#### (a) Acceptance by Secretary

The Secretary shall accept the conveyance of the lands described in subsection (c) of this section, and the Outer Hylebos tidelands property referred to in section VIII, A.1.c of the Settlement Agreement, subject to the terms and conditions of the Settlement Agreement and shall hold such lands in trust for the benefit of the Tribe.

#### (b) Contamination

(1) Contamination audits and cleanup of settlement lands shall be carried out in accordance with the Settlement Agreement and document 1 of the Technical Documents.

(2) The Tribe shall not be liable for the cleanup costs or in any other manner for contamination on properties described in subsection (c) of this section except any contamination caused by the Tribe's activities after conveyance of these properties to the Tribe under the terms of the Settlement Agreement and document 1 of the Technical Documents.

#### (c) Lands described

The lands referred to in subsection (a) of this section, and more particularly described in the Settlement Agreement, are as follows:

- (1) The Blair Waterway property, comprised of approximately 43.4 acres.
- (2) The Blair Backup property, comprised of approximately 85.2 acres.
- (3) The Inner Hylebos property, comprised of approximately 72.9 acres.
- (4) The Upper Hylebos property, comprised of approximately 5.9 acres.
- (5) The Union Pacific property (Fife), comprised of a parcel of approximately 57 acres, and an adjoining 22-acre parcel if the option

relating to the Union Pacific property (Fife) (as described in document 1 of the Technical Documents) is exercised.

(6) The Torre property (Fife), comprised of approximately 27.4 acres, unless the Port elects to provide the cash value of such property.

(7) The Taylor Way and East-West Road properties, two properties totaling approximately 7.4 acres.

(8) The submerged lands in the Puyallup River within the 1873 Survey Area below the mean high water line, as provided in section I. B. of the Settlement Agreement. To the extent that the United States has title to any of the lands described in this subpart,<sup>1</sup> then such lands shall be held by the United States in trust for the use and benefit of the Puyallup Tribe.

(9) The approximately 600 acres of open space, forest, and cultural lands to be acquired by the Tribe with cash received pursuant to section I of the Settlement Agreement or other tribal funds.

**(d) Reservation status**

Nothing in this subchapter is intended to affect the boundaries of the Puyallup Reservation, except that the lands described in subsection (c) of this section above in paragraphs (1) through (8), and the Outer Hylebos tidelands property referred to in section VIII of the Settlement Agreement, shall have on-reservation status.

**(e) Authorization of appropriations**

There is authorized to be appropriated \$500,000 for the Federal share for the purchase of the lands referred to in subsection (c)(9) of this section.

(Pub. L. 101-41, § 4, June 21, 1989, 103 Stat. 85.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1773c of this title.

**§ 1773c. Future trust lands**

In accepting lands in trust (other than those described in section 1773b of this title) for the Puyallup Tribe or its members, the Secretary shall exercise the authority provided him in section 465 of this title, and shall apply the standards set forth in part 151 of title 25, Code of Federal Regulations, as those standards now exist or as they may be amended in the future.

(Pub. L. 101-41, § 5, June 21, 1989, 103 Stat. 86.)

**§ 1773d. Funds to members of Puyallup Tribe**

**(a) Payment to individual members**

(1) To the extent provided in advance in appropriation Acts or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall place with a financial institution the amount of \$24,000,000 in an annuity fund or other investment program (hereafter in this subsection referred to as the “fund”). The selection of the institution or institutions where the funds will be held and the administration of the funds shall be in accordance with section II

of the Settlement Agreement and documents 2 and 3 of the Technical Documents. Amounts earned pursuant to any investment of the fund shall be added to, and become part of, the fund.

(2) Upon attaining the age of 21 years, each enrolled member of the Tribe (determined by the Tribe pursuant to its constitution to have been a member as of the date of ratification of the Settlement Agreement by the Tribe) shall receive a one-time payment from the fund. The amount of such payment shall be determined in accordance with section II of the Settlement Agreement and document 2 of the Technical Documents.

(3) A reasonable and customary fee for the administration of the fund may be paid out of the income earned by the fund to the financial institution with which the fund is established.

(4) Upon payment to all eligible members of the Tribe pursuant to paragraph (2), any amount remaining in the fund shall be utilized in the manner determined by a vote of the members of the Tribe.

(5) There is authorized to be appropriated \$22,350,000 for the Federal share of the fund.

**(b) Permanent trust fund for tribal members**

(1) In order to provide a permanent resource to enhance the ability of the Tribe to provide services to its members, there is established the Puyallup Tribe of Indians Settlement Trust Fund (hereafter in this subsection referred to as the “trust fund”).

(2) Upon appropriation by Congress or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall deposit \$22,000,000 into the trust fund. The trust fund shall be invested in accordance with section 162a of this title, so as to earn the maximum interest on principal and interest available under that section. No part of the \$22,000,000 principal may be expended for any purpose. Income earned on the principal or interest of the trust fund shall be available for expenditure as provided in paragraph (3).

(3)(A) The trust fund shall be administered and the funds shall be expended in accordance with section III of the Settlement Agreement and document 3 of the Technical Documents. Income from the trust fund may be used only for the following purposes unless modified in accordance with subparagraph (B):

- (i) Housing.
- (ii) Elderly needs.
- (iii) Burial and cemetery maintenance.
- (iv) Education and cultural preservation.
- (v) Supplemental health care.
- (vi) Day care.
- (vii) Other social services.

(B) The purposes of the trust fund may be modified only as provided in document 3 of the Technical Documents.

(4) The fund established under this subsection shall be in perpetuity and inviolate.

(5) There is authorized to be appropriated \$18,800,000 for the Federal share of the trust fund.

(Pub. L. 101-41, § 6, June 21, 1989, 103 Stat. 86.)

USE OF FUNDS TO FULFILL BOARD OF TRUSTEES' FIDUCIARY AND ADMINISTRATIVE RESPONSIBILITIES

Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 1005, provided: “That income earned on funds appropriated

<sup>1</sup> So in original. Probably should be “subsection.”

by Public Law 101-121, October 23, 1989, 103 Stat. 701, 715[,] for the purposes of section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41, June 21, 1989, 103 Stat. 83 [25 U.S.C. 1773d(b)], may be utilized by the Permanent Trust Fund Board of Trustees to secure necessary and appropriate financial, auditing, accounting, insurance and other administrative services to fulfill the Board of Trustees' fiduciary and administrative responsibilities: *Provided further*, That no more than 5 per centum of the income in any year may be utilized for such purposes''.

Similar provisions were contained in the following prior appropriation act:

Pub. L. 101-512, title I, Nov. 5, 1990, 104 Stat. 1931.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1773h of this title.

### § 1773e. Fisheries

In order to carry out the Federal part of the fisheries aspect of the Settlement Agreement, there is authorized to be appropriated \$100,000 for navigation equipment at Commencement Bay to be used in accordance with section A of document 4 of the Technical Documents.

(Pub. L. 101-41, § 7, June 21, 1989, 103 Stat. 87.)

### § 1773f. Economic development and land acquisition

#### (a) Economic development and land acquisition fund

To the extent provided in advance in appropriation Acts, the Secretary shall disburse \$10,000,000 to the Tribe of which—

(1) \$9,500,000 shall be available for the Tribe to carry out economic development consistent with section VI of the Settlement Agreement or to acquire lands; and

(2) \$500,000 shall be available only to support and assist the development of business enterprises by members of the Tribe in a manner consistent with the Settlement Agreement.

There is authorized to be appropriated \$10,000,000 to carry out this subsection.

#### (b) Foreign trade

The Congress recognizes the right of the Tribe to engage in foreign trade consistent with Federal law and notwithstanding article XII of the treaty with the Nisqually and other bands of Indians entered into on December 26, 1854, and accepted, ratified, and confirmed on March 3, 1855 (11 Stat. 1132).

#### (c) Blair project

There is authorized to be appropriated to the Secretary the amount of \$25,500,000 for the Federal share of the costs associated with the Blair project, which shall be carried out in accordance with document 6 of the Technical Documents. For the purpose of this subsection, the Secretary shall transfer such amount to the Department of Transportation of the State of Washington. Such amount may only be used by the Department of Transportation of the State of Washington to carry out the Blair project in accordance with document 6 of the Technical Documents. Operation and maintenance of the Blair Waterway channel shall remain the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

(Pub. L. 101-41, § 8, June 21, 1989, 103 Stat. 87.)

### § 1773g. Jurisdiction

The Tribe shall retain and exercise jurisdiction, and the United States and the State and political subdivisions thereof shall retain and exercise jurisdiction, as provided in the Settlement Agreement and Technical Documents and, where not provided therein, as otherwise provided by Federal law.

(Pub. L. 101-41, § 9, June 21, 1989, 103 Stat. 88.)

#### EFFECTIVE DATE

Section effective on the effective date of the Settlement Agreement and when all terms are met as stated under section X of the Settlement Agreement, see section 13 of Pub. L. 101-41, set out as a note under section 1773a of this title.

### § 1773h. Miscellaneous provisions

#### (a) Liens and forfeitures, etc.

(1) None of the funds, assets, or income from the trust fund established in section 1773d(b) of this title which are received by the Tribe under the Settlement Agreement shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure.

(2) The annuity fund, or other investment program, established in section 1773d(a) of this title shall not be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure. Payments from the fund shall be in accordance with the Act of August 2, 1983 (25 U.S.C. 117a et seq.; commonly referred to as the "Per Capita Act").

#### (b) Eligibility for Federal programs; trust responsibility

Nothing in this subchapter or the Settlement Agreement shall affect the eligibility of the Tribe or any of its members for any Federal program or the trust responsibility of the United States and its agencies to the Tribe and members of the Tribe.

#### (c) Permanent trust fund not counted for certain purposes

None of the funds, assets, or income from the trust fund established in section 1773d(b) of this title shall at any time be used as a basis for denying or reducing funds to the Tribe or its members under any Federal, State, or local program.

#### (d) Tax treatment of funds and assets

None of the funds or assets transferred to the Tribe or its members by the Settlement Agreement of<sup>1</sup> this subchapter, and none of the interest earned or income received on amounts in the funds established under section 1773d(a) and (b) of this title, shall be deemed to be taxable, nor shall such transfers be taxable events.

(Pub. L. 101-41, § 10, June 21, 1989, 103 Stat. 88.)

#### REFERENCES IN TEXT

Act of August 2, 1983, referred to in subsec. (a)(2), is Pub. L. 98-64, Aug. 2, 1983, 97 Stat. 365, popularly known as the Per Capita Act, which enacted sections 117a to 117c of this title and repealed section 117 of this title. For complete classification of this Act to the Code, see

<sup>1</sup> So in original. Probably should be "or".

Short Title note set out under section 117a of this title and Tables.

### § 1773i. Actions by Secretary

The Secretary in administering this subchapter shall be aware of the trust responsibility of the United States to the Tribe and shall take such actions as may be necessary or appropriate to carry out this subchapter and the Settlement Agreement.

(Pub. L. 101-41, § 11, June 21, 1989, 103 Stat. 89.)

### § 1773j. Definitions

For the purposes of this subchapter—

(1) the term “1873 Survey Area” means the area which is within the area demarked by the high water line as meandered and the upland boundaries, as shown on the plat map of the 1873 Survey of the Puyallup Indian Reservation, conducted by the United States General Land Office, and filed in 1874;

(2) the term “Secretary” means the Secretary of the Interior;

(3) the term “Settlement Agreement” means the document entitled “Agreement between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners”, dated August 27, 1988;

(4) the term “State” means the State of Washington;

(5) the term “Technical Documents” means the 7 documents which comprise the technical appendix to the Settlement Agreement and are dated August 27, 1988;

(6) the term “Tribe” means the Puyallup Tribe of Indians, a tribe of Indians recognized by the United States;

(7) the term “below the mean high water line” in reference to the submerged lands of the Puyallup Riverbed means “below the ordinary high water mark” in that portion of the river not subject to tidal influence and “below the mean high water line” in that portion of the river which is subject to tidal influence; and

(8) the term “on-reservation status” means a status under which Federal laws and regulations, treaty rights, and rights of sovereignty, which define the rights and responsibilities on trust or restricted lands (including rights-of-way and easements running through such lands within a Federal Indian reservation) apply: *Provided*, That such application is not inconsistent with any provision of the Settlement Agreement.

(Pub. L. 101-41, § 12, June 21, 1989, 103 Stat. 89.)

## SUBCHAPTER VIII—SENECA NATION (NEW YORK) LAND CLAIMS SETTLEMENT

### § 1774. Findings and purposes

#### (a) City of Salamanca and congressional villages

The Congress finds and declares that:

(1) Disputes concerning leases of tribal lands within the city of Salamanca and the congressional villages, New York, have strained relations between the Indian and non-Indian com-

munities and have resulted in adverse economic impacts affecting both communities.

(2) Some of the significant historical events which have led to the present situation include—

(A) beginning in the mid-nineteenth century, several railroads obtained grants or leases of rights of way through the Allegany Reservation without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(B) after construction of these railroads, Allegany Reservation lands were leased to railroad employees, persons associated with the railroads, residents of the city and farmers without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(C) none of these leases had Federal authorization or approval and, after the courts ruled these leases invalid, Congress enacted the Act of February 19, 1875 (18 Stat. 330), confirming existing leases of Allegany Reservation lands, authorizing further leasing by the Seneca Nation, and making the confirmed leases renewable for a twelve year period;

(D) the Act of September 30, 1890 (26 Stat. 558), amended the 1875 Act by substituting a renewal term of “not exceeding ninety-nine years” for the original renewal term of twelve years; and

(E) in 1952 the Seneca Nation filed a claim with the Indian Claims Commission against the United States for use of improper lease fees, and in 1977 a settlement was reached regarding such claim, providing for the payment of \$600,000 to the Seneca Nation covering the period beginning in 1870 to the end of 1946.

(3) An analysis of historic land values indicates that the payments made under the original lease agreement and under the settlement described in paragraph (2)(E) were well below the actual lease value of the property.

(4) The approaching expiration of the Salamanca and congressional village leases on February 19, 1991, has created significant uncertainty and concern on the part of the city of Salamanca and Salamanca residents, and among the residents of the congressional villages, many of whose families have resided on leased lands for generations.

(5) The future economic success of the Seneca Nation, city, and congressional villages is tied to the securing of a future lease agreement.

(6) The Federal and State governments have agreed that there is a moral responsibility on the part of both governments to help secure a fair and equitable settlement for past inequities.

#### (b) Purpose

It is the purpose of this subchapter—

(1) to effectuate and support the Agreement between the city and the Seneca Nation, and facilitate the negotiation of new leases with lessees in the congressional villages;

(2) to assist in resolving the past inequities involving the 1890 leases and to secure fair and equitable compensation for the Seneca Nation based on the impact of these leases on the economy and culture of the Seneca Nation;

(3) to provide a productive environment between the Seneca Nation and lessees for negotiating the leases provided for under the Agreement;

(4) to provide stability and security to the city and the congressional villages, their residents, and businesses;

(5) to promote the economic growth of the city and the congressional villages;

(6) to promote economic self-sufficiency for the Seneca Nation and its members;

(7) to promote cooperative economic and community development efforts on the part of the Seneca Nation and the city; and

(8) to avoid the potential legal liability on the part of the United States that could be a direct consequence of not reaching a settlement.

(Pub. L. 101-503, §2, Nov. 3, 1990, 104 Stat. 1292.)

#### REFERENCES IN TEXT

Act of February 19, 1875 (18 Stat. 330), referred to in subsec. (a)(2)(C), is act Feb. 19, 1875, ch. 90, 18 Stat. 330, as amended, which is not classified to the Code.

Act of September 30, 1890 (26 Stat. 558), referred to in subsec. (a)(2)(D), is act Sept. 30, 1890, ch. 1132, 26 Stat. 558, which is not classified to the Code.

#### SHORT TITLE

Section 1 of Pub. L. 101-503 provided that: "This Act [enacting this subchapter] may be cited as the 'Seneca Nation Settlement Act of 1990'."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1774d of this title.

### § 1774a. Definitions

For the purposes of this subchapter—

(1) the term "1890 lease" means a lease made by the Seneca Nation which is subject to—

(A) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330); and

(B) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558);

(2) the term "Agreement" means the document executed by the Seneca Nation and the city entitled "Agreement between the Seneca Nation of Indians and the City of Salamanca", including the appendix to the Agreement;

(3) the term "city" means the city of Salamanca, New York;

(4) the term "lessee" means the holder of an 1890 lease which either expires in 1991 or is one of the leases listed in document 1 of the Technical Documents, including any lessee who holds an 1890 lease by reason of assignment, inheritance, or other manner as provided by the Act referred to in paragraph (1)(A);

(5) the term "memorandum of understanding" means an agreement between the State and the Seneca Nation pertaining to the payment of the funds to be provided pursuant to this subchapter, which memorandum of understanding reflects an agreement between the Seneca Nation and the State concerning a mechanism and schedule of payments for the funds described in section 1774d(c) of this title;

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Seneca Nation" means the Seneca Nation of Indians of the Allegany, Cattaraugus, and Oil Spring Reservations;

(8) the term "State" means the State of New York;

(9) the term "Technical Documents" means the documents which comprise the appendix to the Agreement; and

(10) the term "congressional villages" means the villages of Carrollton, Great Valley, and Vandalia in the State of New York.

(Pub. L. 101-503, §3, Nov. 3, 1990, 104 Stat. 1293.)

#### REFERENCES IN TEXT

Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330), referred to in pars. (1)(A) and (4), is not classified to the Code.

Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558), referred to in par. (1)(B), is not classified to the Code.

### § 1774b. New leases and extinguishment of claims

#### (a) New leases

If the Seneca Nation offers new leases in accordance with the Agreement, this subchapter shall apply with respect to the Seneca Nation. The Seneca Nation shall supply copies of such leases to the Secretary and shall certify in writing that it has supplied the Secretary with copies of written offers to all lessees entitled to an offer.

#### (b) Extinguishment of claims

The Seneca Nation shall execute appropriate documents relinquishing all claims against the United States, the State, the city, the congressional villages, and all prior lessees for payment of annual rents prior to February 20, 1991, with respect to all prior and existing leases.

#### (c) Effective date of leases and relinquishments

(1) The relinquishment of claims against the United States shall be effective upon payment by the United States to the Seneca Nation of the funds provided in section 1774d of this title.

(2) The offers, and any acceptances thereof, referred to in subsection (a) of this section, and the relinquishment of claims against the State, the city, the congressional villages, and all prior lessees for payment of annual rents referred to in subsection (b) of this section shall not be binding on the Seneca Nation until after the later of the dates on which (1) Congress, or (2) the legislature of the State appropriates the amount of funds set forth in section 1774d of this

title or the Seneca Nation and the State agree upon a schedule and mechanism for payments for funds pursuant to section 1774d(c) of this title. Such agreement shall render the offers, acceptances and the relinquishment effective so long as the payments are made as agreed upon by the Seneca Nation and the State.

(Pub. L. 101-503, §4, Nov. 3, 1990, 104 Stat. 1294.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1774d, 1774e of this title.

### § 1774c. Responsibilities and restrictions

#### (a) Seneca Nation

The Congress finds that the Seneca Nation is solely responsible for negotiation of the leases under the Agreement in its own interest and approval of any such lease by the United States is not required.

#### (b) Lessees

The Congress finds that—

(1) the lessees of leases with the Seneca Nation are responsible for representing their own interest in lease negotiations with the Seneca Nation; and

(2) nothing in this subchapter shall be construed to prevent the lessees from collectively negotiating with the Seneca Nation regarding such leases, whether through informal groups or as delegations formally sanctioned by either the State or local governments.

#### (c) United States

(1) The United States shall not serve in a capacity to approve leases of the Seneca Nation.

(2) Federal funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease, except for funds that may be available under a conventional, nationwide program.

#### (d) State

(1) The State shall not serve in a capacity to approve leases of the Seneca Nation.

(2) State funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease.

(Pub. L. 101-503, §5, Nov. 3, 1990, 104 Stat. 1295.)

### § 1774d. Settlement funds

#### (a) In general

In recognition of the findings and purposes specified in section 1774 of this title, the settlement funds provided pursuant to this subchapter shall be provided by the United States and the State. The Secretary may not obligate or expend funds provided under subsection (b) of this section until the Secretary determines that there is an agreed upon and signed memorandum of understanding.

#### (b) Funds provided by United States

##### (1) Cash payment

The Secretary shall pay to the Seneca Nation the amount of \$30,000,000, which is the Federal share of the cash payment to be managed, invested, and used by the Nation to further specific objectives of the Nation and its

members, all as determined by the Nation in accordance with the Constitution and laws of the Nation.

#### (2) Economic development

(A) In addition to the amount provided under paragraph (1), the Secretary shall pay to the Seneca Nation the amount of \$5,000,000 to be used for the economic and community development of the Seneca Nation, including the city of Salamanca, which is an integral part of the Seneca Nation's Allegany Reservation. Such amount shall be deposited by the Secretary, administered, and disbursed in accordance with subparagraph (B).

(B)(i) The sum of \$2,000,000 shall be deposited in a separate interest bearing account of the Seneca Nation. The account shall be administered, and the principal and interest thereon disbursed, by the Seneca Nation in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation. Until the principal is expended pursuant to such plan, the income accruing from such sum shall be disbursed to the treasurer of the Seneca Nation on a quarterly basis to fund tribal government operations and to provide for the general welfare of the Seneca Nation and its members. The Seneca Nation may in its discretion add the accrued income to the principal.

(ii) The sum of \$3,000,000 shall be deposited in an escrow account which shall be owned by the Seneca Nation. The escrow agent shall be selected by agreement of the Seneca Nation and the city. The escrow account shall remain in existence for a period of ten years from the date on which the principal is deposited or until all payments provided for under section V.D. of the Agreement have been made. The escrow account shall be held and disbursed for economic and community development as set forth in section V.D. of the Agreement. Upon the expiration of the ten-year period, the \$3,000,000 principal shall be disbursed in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation.

#### (c) Funds to be provided by State

The State, in accordance with its laws and regulations, shall provide the sum of \$16,000,000 in cash payments and \$9,000,000 for economic or community development subject to the provisions of the memorandum of understanding.

#### (d) Time of payments

The payments required by this section on the part of the United States shall be made within 30 days of the Secretary's determination that the Seneca Nation has complied with section 1774b of this title, or upon the availability of the amounts necessary to carry out this subchapter, if such determination has previously been made. If the Secretary determines that the Seneca Nation has not complied with section 1774b of this title, he shall advise the Seneca Nation in writing of all steps it must take to comply.

#### (e) Limitation

The only amounts available to carry out this subchapter shall be those amounts specifically

appropriated by the Congress or the legislature of the State to carry out this subchapter.

(Pub. L. 101-503, §6, Nov. 3, 1990, 104 Stat. 1295.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1774a, 1774b, 1774e of this title.

### § 1774e. Conditions precedent to payment of United States and State funds

Amounts may not be expended from—

(1) the \$30,000,000 and the \$5,000,000 provided by the United States under section 1774d(b) of this title, and

(2) the \$16,000,000 and \$9,000,000 provided by the State under section 1774d(c) of this title,

until after the authorized officials of the Seneca Nation execute new leases with all lessees who accept the Seneca Nation's offer of a new lease, as filed with the Secretary under section 1774b(a) of this title, and execute appropriate documents relinquishing all claims for payment of annual rents prior to February 20, 1991, with respect to such leases.

(Pub. L. 101-503, §7, Nov. 3, 1990, 104 Stat. 1296.)

### § 1774f. Miscellaneous provisions

#### (a) Liens and forfeitures, etc.

Subject to subsection (b) of this section, the provisions of section 1407 of this title shall apply to any payment of funds authorized to be appropriated under this subchapter and made to individual members of the Seneca Nation. None of the payments, funds, or distributions authorized, established, or directed by this subchapter, and none of the income derived therefrom, which may be received under this subchapter by the Seneca Nation or individual members of the Seneca Nation, shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

#### (b) Eligibility for Government programs

None of the payments, funds or distributions authorized, established, or directed by this subchapter, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program.

#### (c) Land acquisition

Land within its aboriginal area in the State or situated within or near proximity to former reservation land may be acquired by the Seneca Nation with funds appropriated pursuant to this subchapter. State and local governments shall have a period of 30 days after notification by the Secretary or the Seneca Nation of acquisition of, or intent to acquire such lands to comment on the impact of the removal of such lands from real property tax rolls of State political subdivisions. Unless the Secretary determines within 30 days after the comment period that such lands should not be subject to the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177), such lands shall be subject to the provisions of that Act<sup>1</sup> and shall be held in restricted fee

status by the Seneca Nation. Based on the proximity of the land acquired to the Seneca Nation's reservations, land acquired may become a part of and expand the boundaries of the Alleghany Reservation, the Cattaraugus Reservation, or the Oil Spring Reservation in accordance with the procedures established by the Secretary for this purpose.

(Pub. L. 101-503, §8, Nov. 3, 1990, 104 Stat. 1296.)

### § 1774g. Limitation of action

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this subchapter shall be barred unless the action is filed on or before the date which is 180 days after November 3, 1990. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the Western District of New York.

(Pub. L. 101-503, §9, Nov. 3, 1990, 104 Stat. 1297.)

### § 1774h. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 101-503, §10, Nov. 3, 1990, 104 Stat. 1297.)

## SUBCHAPTER IX—MOHEGAN NATION (CONNECTICUT) LAND CLAIMS SETTLEMENT

### § 1775. Findings and purposes

#### (a) Findings

Congress finds the following:

(1) The Mohegan Tribe of Indians of Connecticut received recognition by the United States pursuant to the administrative process under part 83 of title 25 of the Code of Federal Regulations.

(2) The Mohegan Tribe of Indians of Connecticut is the successor in interest to the aboriginal entity known as the Mohegan Indian Tribe.

(3) The Mohegan Tribe has existed in the geographic area that is currently the State of Connecticut for a long period preceding the colonial period of the history of the United States.

(4) Certain lands were sequestered as tribal lands by the Colony of Connecticut and subsequently by the State of Connecticut.

(5) The Mohegan Tribe of Indians of Connecticut v. State of Connecticut, et al. (Civil Action No. H-77-434, pending before the United States District Court for the Southern District of Connecticut) relates to the ownership of certain lands within the State of Connecticut.

(6) Such action will likely result in economic hardships for residents of the State of Connecticut, including residents of the town of Montville, Connecticut, by encumbering the title to lands in the State, including lands that are not currently the subject of the action.

(7) The State of Connecticut and the Mohegan Tribe have executed agreements for the purposes of resolving all disputes between the State of Connecticut and the Mohegan Tribe and providing a settlement for the action referred to in paragraph (5).

<sup>1</sup> So in original. Probably should be "section".



(8) In order to implement the agreements referred to in paragraphs (5) and (6) of section 1775a of this title that address matters of jurisdiction with respect to certain offenses committed by and against members of the Mohegan Tribe and other Indians in Indian country and matters of gaming-related development, it is necessary for the Congress to enact legislation.

(9) The town of Montville, Connecticut, will—

(A) be affected by the loss of a tax base from, and jurisdiction over, lands that will be held in trust by the United States on behalf of the Mohegan Tribe; and

(B) serve as the host community for the gaming operations of the Mohegan Tribe.

(10) The town of Montville and the Mohegan Tribe have entered into an agreement to resolve issues extant between them and to establish the basis for a cooperative government-to-government relationship.

#### (b) Purposes

The purposes of this subchapter are as follows:

(1) To facilitate the settlement of claims against the State of Connecticut by the Mohegan Tribe.

(2) To facilitate the removal of any encumbrance to any title to land in the State of Connecticut that would have resulted from the action referred to in subsection (a) of this section.

(Pub. L. 103-377, §2, Oct. 19, 1994, 108 Stat. 3501.)

#### SHORT TITLE

Section 1 of Pub. L. 103-377 provided that: “This Act [enacting this subchapter] may be cited as the ‘Mohegan Nation of Connecticut Land Claims Settlement Act of 1994’.”

### § 1775a. Definitions

As used in this subchapter:

#### (1) Lands or natural resources

The term “lands or natural resources” means any real property or natural resources, or any interest in or right involving any real property or natural resources, including any right or interest in minerals, timber, or water, and any hunting or fishing rights.

#### (2) Mohegan Tribe

The term “Mohegan Tribe” means the Mohegan Tribe of Indians of Connecticut, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations, and the State of Connecticut pursuant to section 47-59a(b) of the Connecticut General Statutes.

#### (3) Secretary

The term “Secretary” means the Secretary of the Interior.

#### (4) State

The term “State” means the State of Connecticut.

#### (5) State Agreement

The term “State Agreement” means the Agreement between the Mohegan Tribe and

the State of Connecticut, executed on May 17, 1994, by the Governor of the State of Connecticut and the Chief of the Mohegan Tribe, that was filed with the Secretary of State of the State of Connecticut.

#### (6) Town Agreement

The term “Town Agreement” means the agreement executed on June 16, 1994, by the Mayor of the town of Montville and the Chief of the Mohegan Tribe.

#### (7) Transfer

The term “transfer” includes any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or any event that results in a change of possession or control of land or natural resources.

(Pub. L. 103-377, §3, Oct. 19, 1994, 108 Stat. 3502.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1775 of this title.

### § 1775b. Action by Secretary

#### (a) In general

The Secretary is authorized to carry out the duties specified in subsection (b) of this section at such time as the Secretary makes a determination that—

(1) in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), the State of Connecticut has entered into a binding compact with the Mohegan Tribe providing for class III tribal gaming operations (as defined in section 4(8) of such Act (25 U.S.C. 2703(8)));

(2) the compact has been approved by the Secretary pursuant to section 11(d)(8) of such Act (25 U.S.C. 2710(d)(8)); and

(3) pursuant to transfers carried out pursuant to the State Agreement, the United States holds title to lands described in exhibit B of the State Agreement in trust for the Mohegan Tribe to be used as the initial Indian reservation of the Mohegan Tribe.

#### (b) Publication by Secretary

If the Secretary makes a determination under subsection (a) of this section that the conditions specified in paragraphs (1) through (3) of that subsection have been met, the Secretary shall publish the determination, together with the State Agreement, in the Federal Register.

#### (c) Effect of publication

##### (1) In general

Upon the publication of the determination and the State Agreement in the Federal Register pursuant to subsection (b) of this section, a transfer, waiver, release, relinquishment, or other commitment made by the Mohegan Tribe in accordance with the terms and conditions of the State Agreement shall be in full force and effect.

##### (2) Approval by the United States

(A) The United States hereby approves any transfer, waiver, release, relinquishment, or other commitment carried out pursuant to paragraph (1).

(B) A transfer made pursuant to paragraph (1) shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the “Trade and Intercourse Act of 1790”; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)). The approval of the United States made pursuant to subparagraph (A) shall apply to the transfer beginning on the date of the transfer.

**(d) Extinguishment of claims**

**(1) In general**

Subject to subsections (f)(2) and (g) of this section, the following claims are hereby extinguished:

(A) Any claim to land within the State of Connecticut based upon aboriginal title by the Mohegan Tribe.

(B) Any other claim that the Mohegan Tribe may have with respect to any public or private lands or natural resources in Connecticut, including any claim or right based on recognized title, including—

(i) any claim that the Mohegan Tribe may have to the tribal sequestered lands bounded out to the Tribe in 1684, consisting of some 20,480 acres lying between the Thames River, New London bounds, Norwich bounds, and Colchester bounds;

(ii) any claim that the Mohegan Tribe may have based on a survey conducted under the authority of the Connecticut General Assembly in 1736 of lands reserved and sequestered by the General Assembly for the sole use and improvement of the Mohegan Indian Tribe; and

(iii) any claim that the Mohegan Tribe may have based on any action by the State carried out in 1860 or 1861 or otherwise made by the State to allot, reallocate, or confirm any lands of the Mohegan Tribe to individual Indians or other persons.

**(2) Approval by the United States**

An extinguishment made pursuant to this subsection shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the “Trade and Intercourse Act of 1790”; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)).

**(e) Transfers**

Subject to subsection (g) of this section, any transfer of lands or natural resources located within the State of Connecticut, including any such transfer made pursuant to any applicable Federal or State law (including any applicable treaty), made by, from, or on behalf of the Mohegan Tribe or any predecessor or successor in interest of the Mohegan Tribe shall be deemed to be in full force and effect, as provided in subsection (c)(1) of this section.

**(f) Limitation**

**(1) In general**

Except as provided in paragraph (2) and subject to subsection (g) of this section, by virtue of the approval by the United States under this section of a transfer of land or the extinguishment of aboriginal title, any claim by the Mohegan Tribe against the United States, any State or political subdivision of a State, or any other person or entity, by the Mohegan Tribe, that—

(A) arises after the transfer or extinguishment is carried out; and

(B) is based on any interest in or right involving any claim to lands or natural resources described in this section, including claims for trespass damages or claims for use and occupancy,

shall, beginning on the date of the transfer of land or the extinguishment of aboriginal title, be considered an extinguished claim.

**(2) Exception**

The limitation under paragraph (1) shall not apply to any interest in lands or natural resources that is lawfully acquired by the Mohegan Tribe or a member of the Mohegan Tribe after the applicable date specified in paragraph (1).

**(g) Statutory construction**

**(1) Aboriginal interests**

Nothing in this section may be construed to extinguish any aboriginal right, title, interest, or claim to lands or natural resources, to the extent that such right, title, interest, or claim is an excepted interest, as defined under section 1(a) of the State Agreement.

**(2) Personal claims**

Nothing in this section may be construed to offset or eliminate the personal claim of any individual Indian if the individual Indian pursues such claim under any law of general applicability.

(Pub. L. 103-377, § 4, Oct. 19, 1994, 108 Stat. 3502.)

REFERENCES IN TEXT

The Indian Gaming Regulatory Act, referred to in subsec. (a)(1), is Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Trade and Intercourse Act of 1790, referred to in subsecs. (c)(2)(B) and (d)(2), is act July 22, 1790, ch. 33, 1 Stat. 137, which is not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1775g of this title.

**§ 1775c. Conveyance of lands to United States to be held in trust for Mohegan Tribe**

**(a) In general**

Subject to the environmental requirements that apply to land acquisitions covered under part 151 of title 25, Code of Federal Regulations (or any subsequent similar regulation), the Secretary shall take such action as may be necessary to facilitate the conveyance to the

United States of title to lands described in exhibits A and B of the State Agreement. Such lands shall be held by the United States in trust for the use and benefit of the Mohegan Tribe as the initial Indian reservation of the Mohegan Tribe.

**(b) Consultation**

**(1) In general**

The Secretary shall consult with the appropriate official of the town of Montville concerning any tract of land subject to exhibit B of the State Agreement but not specifically identified in such exhibit with respect to the impact on the town resulting from—

- (A) the removal of the land from taxation by the town;
- (B) problems concerning the determination of jurisdiction; and
- (C) potential land use conflicts.

**(2) Statutory construction**

Nothing in this subchapter may affect the right of the town of Montville to participate, under any applicable law, in decisionmaking processes concerning the acquisition of any lands by the Federal Government to be held in trust for the Mohegan Tribe.

(Pub. L. 103-377, § 5, Oct. 19, 1994, 108 Stat. 3504.)

**§ 1775d. Consent of United States to State assumption of criminal jurisdiction**

**(a) In general**

Subject to subsection (b) of this section, the consent of the United States is hereby given to the assumption of jurisdiction by the State of Connecticut over criminal offenses committed by or against Indians on the reservation of the Mohegan Tribe. The State shall have such jurisdiction to the same extent as the State has jurisdiction over such offenses committed elsewhere within the State. The criminal laws of the State shall have the same force within such reservation and Indian country as such laws have elsewhere within the State.

**(b) Statutory construction**

**(1) Effect on concurrent jurisdiction of the Mohegan Tribe**

The assumption of criminal jurisdiction by the State pursuant to subsection (a) of this section shall not affect the concurrent jurisdiction of the Mohegan Tribe over matters concerning such criminal offenses.

**(2) Statutory construction**

The assumption of criminal jurisdiction by the State pursuant to subsection (a) of this section shall not be construed as a waiver of the jurisdiction of the United States under section 1153 of title 18.

(Pub. L. 103-377, § 6, Oct. 19, 1994, 108 Stat. 3505.)

**§ 1775e. Ratification of Town Agreement**

**(a) In general**

Notwithstanding any other provision of law, the consent of the United States is hereby given to the Town Agreement and the Town Agreement shall be in full force and effect.

**(b) Approval of Town Agreement**

The Secretary shall approve any subsequent amendments made to the Town Agreement after October 19, 1994, that are—

- (1) mutually agreed on by the parties to the Town Agreement; and
- (2) consistent with applicable law.

(Pub. L. 103-377, § 7, Oct. 19, 1994, 108 Stat. 3505.)

**§ 1775f. General discharge and release of obligations of State of Connecticut**

Except as expressly provided in this subchapter, the State Agreement, or the Town Agreement, this subchapter shall constitute a general discharge and release of all obligations of the State of Connecticut and the political subdivisions, agencies, departments, officers, or employees of the State of Connecticut arising from any treaty or agreement with, or on behalf of, the Mohegan Tribe or the United States as trustee for the Mohegan Tribe.

(Pub. L. 103-377, § 8, Oct. 19, 1994, 108 Stat. 3505.)

**§ 1775g. Effect of revocation of State Agreement**

**(a) In general**

If, during the 15-year period beginning on the date on which the Secretary publishes a determination pursuant to section 1775b(b) of this title, the State Agreement is invalidated by a court of competent jurisdiction, or if the gaming compact described in section 1775b(a)(1) of this title or any agreement between the State of Connecticut and the Mohegan Tribe to implement the compact is invalidated by a court of competent jurisdiction—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Mohegan Tribe under section 1(a) of the State Agreement shall cease to be of any force or effect;

(2) section 1775b of this title shall not apply to the lands or interests in lands or natural resources of the Mohegan Tribe or any of its members, and the title to the lands or interests in lands or natural resources shall be determined as if such section were never enacted; and

(3) the approval by the United States of prior transfers and the extinguishment of claims and aboriginal title of the Mohegan Tribe otherwise made under section 1775b of this title shall be void.

**(b) Right of Mohegan Tribe to reinstate claim**

**(1) In general**

If a State Agreement or compact or agreement described in subsection (a) of this section is invalidated by a court of competent jurisdiction, the Mohegan Tribe or its members shall have the right to reinstate a claim to lands or interests in lands or natural resources to which the Tribe or members are entitled as a result of the invalidation, within a reasonable time, but not later than the later of—

(A) 180 days after the Mohegan Tribe receives written notice of such determination of an invalidation described in subsection (a) of this section; or

(B) if the determination of the invalidation is subject to an appeal, 180 days after the court of last resort enters a judgment.

**(2) Defenses**

Notwithstanding any other provision of law, if a party to an action described in paragraph (1) reinstates the action during the period described in paragraph (1)(B)—

(A) no defense, such as laches, statute of limitations, law of the case, *res judicata*, or prior disposition may be asserted based on the withdrawal of the action and reinstatement of the action; and

(B) the substance of any discussions leading to the State Agreement may not be admissible in any subsequent litigation, except that, if any such action is reinstated, any defense that would have been available to the State of Connecticut at the time the action was withdrawn—

(i) may be asserted; and

(ii) is not waived by anything in the State Agreement or by subsequent events occurring between the withdrawal action and commencement of the reinstated action.

(Pub. L. 103-377, § 9, Oct. 19, 1994, 108 Stat. 3506.)

**§ 1775h. Judicial review****(a) Jurisdiction**

Notwithstanding any other provision of law, during the period beginning on October 19, 1994, and ending on the date that is 180 days after October 19, 1994, the United States District Court for the Southern District of Connecticut shall have exclusive jurisdiction over any action to contest the constitutionality of this subchapter or the validity of any agreement entered into under the authority of this subchapter or approved by this subchapter.

**(b) Deadline for filing**

Effective with the termination of the period specified in subsection (a) of this section, no court shall have jurisdiction over any action to contest the constitutionality of this subchapter or the validity of any agreement entered into under the authority of this subchapter or approved by this subchapter, unless such action was filed prior to the date of termination of the period specified in subsection (a) of this section.

(Pub. L. 103-377, § 10, Oct. 19, 1994, 108 Stat. 3507.)

## SUBCHAPTER X—CROW LAND CLAIMS SETTLEMENT

**§ 1776. Findings and purpose****(a) Findings**

Congress finds the following:

(1) Under the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the “Fort Laramie Treaty of 1868”; 15 Stat. 649), the eastern boundary of the Crow Indian Reservation was established as the 107th meridian for approximately 90 miles from the Yellowstone River to the boundary between Montana and Wyoming.

(2) Under Executive orders issued in 1884 and 1900, the western boundary of the Northern Cheyenne Reservation was established as the 107th meridian. The 107th meridian was in-

tended to be the common boundary between the Crow Reservation and Northern Cheyenne Reservation for approximately 25 miles.

(3) From 1889 through 1891, a survey was conducted of the eastern boundary of the Crow Reservation. The 1891 survey line strayed to the west, and resulted in the exclusion from the Crow Indian Reservation of a strip of land of approximately 36,164 acres. Approximately 12,964 acres of such strip of land were included in the Northern Cheyenne Reservation. Deposits of low sulphur coal underlie the land excluded from the Crow Indian Reservation, including the land included in the Northern Cheyenne Indian Reservation.

(4)(A) The erroneous nature of the survey was not discovered for several decades. Meanwhile, the areas along the 107th meridian to the north and south of the Northern Cheyenne Indian Reservation were opened to settlement in the late nineteenth century and early part of the twentieth century. Patents were issued to non-Indian persons and to the State of Montana for most of the surface land and a significant portion of the minerals in these areas between the 107th meridian and the 1891 survey line.

(B) The 12,964 acres included in the Northern Cheyenne Reservation have been treated as part of the Northern Cheyenne Reservation and occupied by the Northern Cheyenne Tribe and the Northern Cheyenne allottees, and their successors in interest.

(5) Legislation to resolve the 107th meridian boundary dispute was introduced in Congress in the 1960's and 1970's, and again in 1992, but no such legislation was enacted into law.

**(b) Purpose**

The purpose of this subchapter is to settle the 107th meridian boundary dispute created by the erroneous survey of the eastern boundary of the Crow Indian Reservation made by the Federal Government described in subsection (a)(3) of this section.

(Pub. L. 103-444, § 2, Nov. 2, 1994, 108 Stat. 4632.)

### SHORT TITLE

Section 1 of Pub. L. 103-444 provided that: “This Act [enacting this subchapter] may be cited as the ‘Crow Boundary Settlement Act of 1994’.”

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776j of this title.

**§ 1776a. Definitions**

As used in this subchapter:

**(1) Crow Tribe**

The term “Crow Tribe” means the Crow Tribe of Indians, the duly recognized governing body of the Crow Indian Reservation.

**(2) Disputed area**

The term “disputed area” means the approximately 36,164 acres of land, including the minerals, located between the 107th meridian on the east and the 1891 survey line on the west from the Yellowstone River on the north to the boundary between the State of Wyoming and the State of Montana on the south.

**(3) 1891 survey**

The term “1891 survey” means the survey of the eastern boundary of the Crow Reservation conducted by the United States Government from 1889 through 1891.

**(4) 1891 survey line**

The term “1891 survey line” means the erroneous boundary line resulting from the survey of the 107th meridian which was completed in 1891.

**(5) Northern Cheyenne Tribe**

The term “Northern Cheyenne Tribe” means the Northern Cheyenne Tribe of Indians, with the Northern Cheyenne Tribal Council as the duly recognized governing body of the Northern Cheyenne Indian Reservation.

**(6) 107th meridian boundary dispute**

The term “107th meridian boundary dispute” means the dispute resulting from the disparity between the location of the 107th meridian and the location of the 1891 survey line.

**(7) 107th meridian escrow fund**

The term “107th meridian escrow fund” means the revenues that arise from, or are derived from, parcel number 2, including all accrued interest on such revenues, which are held by the Bureau of Indian Affairs in an escrow account as of November 2, 1994.

**(8) Parcel number 1**

The term “parcel number 1” means the area, encompassing approximately 11,317 acres, bounded on the south by the Montana-Wyoming border, on the east by the 107th meridian, on the north by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

**(9) Parcel number 2**

The term “parcel number 2” means the area, encompassing approximately 12,964 acres, bounded on the south by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

**(10) Parcel number 3**

The term “parcel number 3” means the area, encompassing approximately 2,469 acres, bounded on the south by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the northern boundary of the Crow Indian Reservation, and on the west by the 1891 survey line.

**(11) Parcel number 4**

The term “parcel number 4” means the area, encompassing approximately 9,415 acres, bounded on the south by the northern boundary of the Crow Indian Reservation, on the east by the 107th meridian, on the north by the midpoint of the Yellowstone River, and on the west by the 1891 survey line.

**(12) Public lands**

The term “public lands” means any land or interest in land owned by the United States

(without regard to the means by which the United States acquired ownership of the land or interest in land) and administered by the Secretary through the Bureau of Land Management.

**(13) Royalties received and retained by the United States**

The term “royalties received and retained by the United States” means the royalties derived from minerals owned by the United States that the United States retains after all payments from the royalties have been made to the State of Montana or any unit of local government of the State of Montana.

**(14) Secretary**

The term “Secretary” means the Secretary of the Interior.

**(15) Settlement Agreement**

The term “Settlement Agreement” means the agreement between the Secretary, on behalf of the United States and the Crow Tribe, that provides for the resolution of all claims held by the Crow Tribe arising from the 107th meridian boundary dispute.

**(16) Undisposed of coal**

The term “undisposed of coal” means coal that has not been conveyed to private parties or to the State of Montana by the United States.

**(17) Undisposed of surface lands**

The term “undisposed of surface lands” means surface land that has not been conveyed to private parties or to the State of Montana by the United States.

**(18) Undisposed of oil, gas, coal methane, or other minerals**

The term “undisposed of oil, gas, coal methane, or other minerals” means oil, gas, coal methane, or other minerals (excluding coal) that have not been conveyed to private parties or to the State of Montana by the United States.

(Pub. L. 103-444, §3, Nov. 2, 1994, 108 Stat. 4633.)

**§ 1776b. Settlement Agreement****(a) Execution**

Subject to the terms and conditions of this subchapter, the Secretary shall enter into the Settlement Agreement with the Crow Tribe.

**(b) Ratification**

Subject to the conditions set forth in section 1776g(a) of this title, the United States hereby approves, ratifies, and confirms the Settlement Agreement, to the extent that such Settlement Agreement does not conflict with this subchapter.

**(c) Modification**

The terms and conditions of the Settlement Agreement may be modified by mutual agreement of the Crow Tribe and the Secretary if such modification—

- (1) is not inconsistent with this subchapter; and
- (2) does not diminish or impair any right or benefit secured to the Northern Cheyenne

Tribe, the Northern Cheyenne allottees, or their successors in interest by or pursuant to any provision of this subchapter.

**(d) Enforcement**

**(1) In general**

Except as provided in paragraph (2), the Settlement Agreement shall be subject to the enforcement provisions under chapter 7 of title 5.

**(2) Additional enforcement**

If, with respect to the enforcement of the Settlement Agreement, the remedies available under the provisions referred to in paragraph (1) do not provide adequate or complete relief, the Settlement Agreement shall be subject to the enforcement provisions under section 1505 of title 28.

(Pub. L. 103-444, §4, Nov. 2, 1994, 108 Stat. 4634.)

**§ 1776c. Settlement terms and conditions and extinguishment of claims**

**(a) Property within parcel number 1**

**(1) In general**

With respect to the property within parcel number 1, the following provisions shall apply:

(A) The boundary of the Crow Indian Reservation shall be the 107th meridian.

(B) Title to the undisposed of coal of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(C) Title to the undisposed of surface lands of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(D) Title to the undisposed of oil, gas, coal methane, or other minerals of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

**(2) Prohibition**

Nothing in this subchapter or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, oil, gas, coal methane, or mineral within parcel number 1 that is based on the 1891 survey line, except for the specific rights that are vested in the United States for the sole use and benefit of the Crow Tribe pursuant to subparagraphs (B) through (D) of paragraph (1).

**(3) Waivers and releases**

The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, title, claim, or interest in all the land and minerals within parcel number 1, except for the rights, titles, and interests recognized as beneficially owned by the Crow Tribe and as part of the Crow Indian Reservation in subparagraphs (B) through (D) of paragraph (1).

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or

related to, the 1891 survey and the subsequent occupancy and use of parcel number 1.

**(b) Property within parcel number 2**

**(1) In general**

With respect to the property within parcel number 2, the following provisions shall apply:

(A) The boundary between the Crow and Northern Cheyenne Indian Reservations shall be the 1891 survey line.

(B) All surface lands and minerals of such parcel shall constitute part of the Northern Cheyenne Reservation.

(C) All surface lands, including all rights appurtenant to the surface lands, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe, except that surface lands that have been allotted shall be recognized as held in trust for, or owned in fee by (as the case may be), the Northern Cheyenne allottees or their successors in interest.

(D) The oil, gas, coal, coal methane, and other minerals, including all rights appurtenant to such minerals, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe.

**(2) Waivers and releases**

The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals within parcel number 2, including all rights appurtenant to such land and minerals.

(B) A release by the Crow Tribe of all persons and entities, including the United States, the Northern Cheyenne Tribe, the Northern Cheyenne allottees and their successors in interest, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 2.

**(3) Enforcement**

The provisions of this subsection may be enforced, in law or in equity, by the Northern Cheyenne Tribe, Northern Cheyenne allottees, and their successors in interest, in accordance with their respective interests.

**(c) Property within parcel number 3 and parcel number 4**

**(1) In general**

With respect to the property within parcel number 3 and parcel number 4, the boundary of the Crow Indian Reservation shall be the 1891 survey line.

**(2) Prohibition**

Nothing in this subchapter or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, or mineral within parcel number 3 or parcel number 4 that is based on the 1891 survey line.

**(3) Waivers and releases**

The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals situated within parcel number 3 and parcel number 4.

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 3 and parcel number 4.

**(d) Exchange of public lands**

With respect to the land exchanges with the State of Montana and private landowners made under this subchapter the following provisions shall apply:

**(1) In general**

(A) The Secretary shall negotiate with the State of Montana for the purpose of exchanging public lands within the State of Montana for State trust lands within the Crow Reservation having a total value substantially equal to the value of the surface estate of the approximately 46,625 acres of State trust lands obtained by the State of Montana pursuant to the Act of February 22, 1889 (commonly known as the “Montana Enabling Act”; 25 Stat. 676, chapter 180), and the Act entitled “An Act to provide for the allotment of lands of the Crow Tribe for the distribution of tribal funds and for other purposes” approved June 4, 1920 (commonly known as the “Crow Allotment Act”; 41 Stat. 751, chapter 224) within the Crow Indian Reservation and the disputed area.

(B) The exchange described in subparagraph (A) shall be in accordance with the exchange procedures set forth in section 1716 of title 43.

(C) In determining the fair market value of the lands described in subparagraph (A), the parties to the exchange shall give due consideration to the value of improvements on the lands.

(D) The Secretary shall ensure that lands exchanged pursuant to this paragraph as part of the settlement of the 107th Meridian boundary dispute made pursuant to this subchapter shall be selected in such manner that the financial impact on local governments, if any, will be minimized.

(E) The Secretary shall provide such financial or other assistance to the State of Montana and to the Crow Tribe as may be necessary to obtain the appraisals, and to satisfy administrative requirements, necessary to accomplish the exchanges made pursuant to subparagraph (A).

(F) Upon approving an exchange made pursuant to this paragraph, the Secretary shall—

(i) receive title to the State trust lands involved in the exchange on behalf of the United States; and

(ii) transfer title to the public lands disposed of pursuant to the exchanges with the State of Montana by such means of conveyance as the Secretary considers appropriate.

(G) Title to the State trust lands acquired pursuant to the exchanges made with the State of Montana pursuant to this paragraph shall be vested in the United States in trust

for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

**(2) Requirement for exchanges**

(A) In carrying out the exchanges with the State of Montana pursuant to paragraph (1), the Secretary shall, during a period of at least 5 years beginning on the date on which the Settlement Agreement becomes effective, give first priority to the exchange of public lands within the State of Montana for State trust lands owned by the State of Montana as of November 2, 1994.

(B) Subject to subparagraph (C), if, for any reason, after the expiration of the period specified in subparagraph (A), the exchanges of the State trust lands identified in paragraph (1) have not provided the Crow Tribe with a total of 46,625 acres of surface lands within the boundaries of the existing Crow Indian Reservation (including parcel number 1), the Secretary shall, at the request of, and in cooperation with, the Crow Tribe, develop and implement a program to provide the Crow Tribe with additional land within the Crow Indian Reservation (including parcel number 1) through land exchanges with private landowners.

(C) The total value of—

(i) the value of the lands exchanged and acquired for the Crow Tribe pursuant to paragraph (1), and

(ii) the value of the lands exchanged and acquired for the Crow Tribe pursuant to this paragraph,

shall not exceed the value of the surface estate of the 46,625 acres of land identified in paragraph (1)(A).

(D) In carrying out a program developed pursuant to this paragraph, the Secretary may exchange public lands within the State of Montana for private lands of substantially equal value within the boundaries of the existing Crow Indian Reservation in accordance with section 1716 of title 43.

(E) In determining the fair market value of the lands described in subparagraph (D), the parties to an exchange made pursuant to subparagraph (D) shall give due consideration to the value of improvements on the lands.

(F) If the Secretary obtains private lands pursuant to subparagraph (D), the Secretary shall transfer title to such lands to the Crow Tribe.

(G) Title to any private or public lands transferred to the Crow Tribe pursuant to this paragraph shall—

(i) be vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(ii) be recognized as part of the Crow Indian Reservation, if such lands are located within the boundaries of the Crow Indian Reservation.

(H) The Crow Tribe shall assist in obtaining prospective willing parties to exchange private lands within the Crow Indian Reservation for public lands within the State of Montana pursuant to this paragraph.

**(e) Crow Tribal Trust Fund**

The Settlement Agreement shall include provisions governing the distribution of interest income to the Crow Tribe from the Crow Tribal Trust Fund pursuant to the terms and conditions described in section 1776d of this title.

(Pub. L. 103-444, § 5, Nov. 2, 1994, 108 Stat. 4635; Pub. L. 104-109, § 9(a), Feb. 12, 1996, 110 Stat. 765.)

## REFERENCES IN TEXT

Act of February 22, 1889, referred to in subsec. (d)(1)(A), is act Feb. 22, 1889, ch. 180, 25 Stat. 676, popularly known as the Montana Enabling Act. For complete classification of this Act to the Code, see Tables.

Act June 4, 1920, referred to in subsec. (d)(1)(A), is act June 4, 1920, ch. 224, 41 Stat. 751, as amended, popularly known as the Crow Allotment Act. For further details, see Crow Indian Reservation note set out under section 331 of this title. For complete classification of this Act to the Code, see Tables.

## AMENDMENTS

1996—Subsec. (b)(3). Pub. L. 104-109 made technical amendment to reference to “this subsection” to correct underlying provisions of original act.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776g of this title.

**§ 1776d. Establishment and administration of Crow Tribal Trust Fund****(a) Establishment****(1) In general**

There is established in the Treasury of the United States a trust fund to be known as the “Crow Tribal Trust Fund”.

**(2) Availability of amounts in the Crow Tribal Trust Fund**

Amounts in the Crow Tribal Trust Fund shall be available, without fiscal year limitation, to the Secretary for distribution to the Crow Tribe in accordance with subsection (d) of this section.

**(b) Contributions****(1) In general**

Subject to paragraph (2) and the requirements of section 1776h of this title—

(A) on or before November 30, 1994, the Secretary of the Treasury shall deposit into the Crow Tribal Trust Fund an amount equal to the amounts of royalties received and retained by the United States during fiscal year 1994 from the East Decker, West Decker, and Spring Creek coal mines; and

(B) commencing with fiscal year 1995 and for such period thereafter as may be necessary, the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into the Crow Tribal Trust Fund of the royalties received and retained by the United States for the immediately preceding month from the East Decker, West Decker, and Spring Creek coal mines in the State of Montana for the life of such mines, including any extensions of the existing leases for such mines and any expansions of such mines to

nearby and adjacent federally owned coal deposits, as specified in the Settlement Agreement.

**(2) Amount of royalties**

The total amount of royalties described in paragraph (1) that are paid, transferred, or deposited into the Crow Tribal Trust Fund shall not exceed, in the aggregate, \$85,000,000, excluding—

(A) any interest earned on moneys in the Crow Tribal Trust Fund; and

(B) the funds transferred to the Suspension Accounts pursuant to section 1776h of this title.

**(3) Payments of royalties received and retained by the United States**

Subject to paragraph (2) and the requirements of section 1776h of this title, the royalties received and retained by the United States from the East Decker, West Decker, and Spring Creek coal mines shall be paid, transferred or deposited into the Crow Tribal Trust Fund not later than 30 days after the date on which the royalties are due and paid.

**(4) Additional payments**

The Federal Government shall make payments, in addition to the payments referred to in paragraph (3), from the royalties received and retained by the United States from other coal mines within the State of Montana into the Crow Tribal Trust Fund in an amount equal to any lost interest income (as determined by the Secretary), if any portion of the sums described in paragraph (3) are not paid, transferred or deposited into the Crow Tribal Trust Fund within the 30-day period prescribed in paragraph (3).

**(c) Investment**

At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with section 161a of this title.

**(d) Distribution of interest****(1) In general**

Only the interest received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe for use for education, land acquisition, economic development, youth and elderly programs or other tribal purposes in accordance with plans and budgets developed and approved by the Crow Tribe and approved by the Secretary.

**(2) Requirements for distribution of interest**

Commencing with fiscal year 1996 and for each fiscal year thereafter, without fiscal year limitation, the interest received on monies in the Crow Tribal Trust Fund shall be available for distribution under this subsection only if—

(A) the United States and the Crow Tribe enter into the Settlement Agreement; and

(B) the requirements of section 1776g of this title relating to the approval and execution of the Settlement Agreement are satisfied.

**(3) Prohibition**

No portion of the Crow Tribal Trust Fund or the interest earned on the Crow Tribal Trust



Fund may be distributed to members of the Crow Tribe on a per capita basis.

**(e) Use of interest for economic development**

Notwithstanding any other provision of law, the Crow Tribe may, subject to approval by the Secretary, assign the right of the Crow Tribe to the interest earned on monies in the Crow Tribal Trust Fund to a third party in connection with loans made for economic development projects on or near the Crow Indian Reservation.

**(f) Limitation**

Notwithstanding any other provision of law, no portion of the principal of the Crow Tribal Trust Fund shall be available for withdrawal or disbursement or used for any purpose other than the purposes specified in this section and section 1776h of this title.

(Pub. L. 103-444, §6, Nov. 2, 1994, 108 Stat. 4638; amended Pub. L. 103-435, §23, Nov. 2, 1994, 108 Stat. 4575.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-435 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with sections 161a to 161d of this title.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1776c, 1776h of this title.

**§ 1776e. Eligibility for other Federal services**

No payments made or benefits conferred pursuant to this subchapter shall result in the reduction or denial of any Federal services or programs to any tribe or to any member of a tribe to which the tribe or member of the tribe is entitled or eligible because of the status of the tribe as a federally recognized Indian tribe or the status of a member of such tribe as a member.

(Pub. L. 103-444, §7, Nov. 2, 1994, 108 Stat. 4640.)

**§ 1776f. Exchanges of land or minerals**

**(a) In general**

(1) Subject to approval by the Secretary, the Crow Tribe may exchange any land or minerals to which its title is recognized in or obtained pursuant to this subchapter for other land or minerals of substantially equivalent value within the Crow Indian Reservation (including parcel number 1).

(2) Lands or minerals received by the Crow Tribe in any exchange made pursuant to paragraph (1) shall be—

(A) vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(B) recognized as part of the Crow Indian Reservation.

**(b) Ownership by non-Indians**

Any land or minerals received by a person who is not an Indian in an exchange referred to in subsection (a) of this section shall be owned in fee.

(Pub. L. 103-444, §8, Nov. 2, 1994, 108 Stat. 4640.)

**§ 1776g. Applicability**

**(a) In general**

This subchapter shall take effect upon the occurrence of the following conditions:

(1) The Settlement Agreement is approved and executed by the Secretary.

(2) The Settlement Agreement is approved and executed by the Crow Tribe.

(3) The Settlement Agreement and the releases and waivers required by section 1776c of this title are approved and duly executed by the Crow Tribe in accordance with the requirements and procedures set forth in the constitution of the Crow Tribe.

(4) The Settlement Agreement becomes effective in accordance with the terms and conditions specified in the Settlement Agreement.

**(b) Approval of releases and waivers**

The United States hereby approves and confirms the releases and waivers required by section 1776c of this title.

(Pub. L. 103-444, §9, Nov. 2, 1994, 108 Stat. 4640; Pub. L. 104-109, §9(b), Feb. 12, 1996, 110 Stat. 765.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-109 substituted “This subchapter” for “The subchapter” in introductory provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1776b, 1776d of this title.

**§ 1776h. Escrow funds**

**(a) In general**

As soon as practicable after November 2, 1994, the Secretary shall make distributions from the 107th meridian escrow fund as follows:

(1) One-half of the fund shall be distributed to the Crow Tribe.

(2) One-half of the fund shall be distributed to the Northern Cheyenne Tribe.

(3) The receipt and acceptance by a tribe of funds distributed under this section shall be deemed to be—

(A) a disclaimer, relinquishment and waiver by such tribe of all right, claim or interest in the 107th meridian escrow fund; and

(B) a release by such tribe of all persons and entities, including the United States, from any liability arising from, or related to, the establishment and administration of the 107th meridian escrow fund.

**(b) Establishment of Suspension Accounts**

As soon as practicable after the Settlement Agreement is executed and approved pursuant to this subchapter, the Secretary of the Treasury shall establish in the Treasury of the United States two interest bearing accounts to be known respectively as the “Crow Tribal Suspension Account” and the “Northern Cheyenne Tribal Suspension Account” (collectively referred to in this section as the “Suspension Accounts”), consisting of—

(1) such amounts as are transferred to the Suspension Accounts under subsection (c) of this section; and

(2) any interest earned on investments of amounts in the Suspension Accounts under subsection (e) of this section.

**(c) Contributions to Suspension Accounts****(1) In general**

Beginning with fiscal year 1995, and ending on the date on which the total amount deposited pursuant to this subsection into the Suspension Accounts is equal to \$200,000 for each such account (as specified in subsection (d) of this section), the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into each of the Suspension Accounts of an amount equal to one-half of the royalties received and retained by the United States for the immediately preceding month, as determined in accordance with section 1776d(b)(1) of this title, by the date specified under section 1776d(b)(3) of this title.

**(2) Subsequent deposits**

At such time as the amount deposited pursuant to this subsection into the Suspension Accounts is equal to \$200,000 for each such account (as specified in subsection (d) of this section), in accordance with section 1776d(b)(1) of this title, the Secretary and the Secretary of the Treasury shall thereafter deposit any remaining amounts determined under section 1776d(b)(1) of this title in the Crow Tribal Trust Fund established under section 1776d(a) of this title.

**(d) Limitation**

The Secretary and the Secretary of the Treasury shall not transfer more than a total amount equal to \$200,000 to each of the Suspension Accounts from the amounts determined under section 1776d(b)(1) of this title.

**(e) Investment**

All sums deposited in, accruing to and remaining in the Suspension Accounts shall be invested by the Secretary and the Secretary of the Treasury in interest bearing deposits and securities in accordance with the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a).

**(f) Withdrawals and termination****(1) In general**

(A) Beginning on the date that is 5 years after November 2, 1994, the Crow Tribe and the Northern Cheyenne Tribe may each submit a duly authorized request to the Secretary for the withdrawal of all of the funds from the Suspension Account of the tribe established under subsection (b) of this section.

(B) Not later than 60 days after receiving a request for the distribution of funds from a Suspension Account made by a tribe under subparagraph (A)—

(i) the Secretary shall, in cooperation with the Secretary of the Treasury, withdraw and distribute such funds in accordance with such request; and

(ii) the Secretary of the Treasury shall terminate the Suspension Account.

**(2) Other means of termination**

With respect to a Suspension Account established under subsection (b) of this section that is not terminated pursuant to paragraph (1), at such time as the corpus and the accrued inter-

est of the Suspension Account of the Crow Tribe or the Northern Cheyenne Tribe is approximately equal to the amount specified in paragraph (1) or (2) of subsection (a) of this section, the Secretary of the Treasury shall terminate the Suspension Account and the Secretary of the Interior shall distribute the funds from the Suspension Account to the tribe.

(Pub. L. 103-444, §10, Nov. 2, 1994, 108 Stat. 4641; Pub. L. 104-109, §9(c), Feb. 12, 1996, 110 Stat. 765.)

## REFERENCES IN TEXT

Act of June 24, 1938, referred to in subsec. (e), is act June 24, 1938, ch. 648, 52 Stat. 1037, which enacted section 162a of this title, repealed section 162 of this title, and enacted provisions set out as a note under section 162a of this title. For complete classification of this Act to the Code, see Tables.

## AMENDMENTS

1996—Subsec. (b). Pub. L. 104-109 substituted “referred to in this section” for “referred to in this subsection”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776d of this title.

**§ 1776i. Fort Laramie Treaty of 1868**

Except for the adjustment to the eastern boundary of the Crow Indian Reservation, nothing in this subchapter or in the Settlement Agreement shall affect or modify the terms and conditions of the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the “Fort Laramie Treaty of 1868”; 15 Stat. 649).

(Pub. L. 103-444, §11, Nov. 2, 1994, 108 Stat. 4642.)

**§ 1776j. Satisfaction of claims**

The benefits available to the Crow Tribe under the terms and conditions of this subchapter and the Settlement Agreement shall constitute full and complete satisfaction of all claims by the Crow Tribe and the members of the Crow Tribe arising from or related to the erroneous survey of the 107th meridian described in section 1776(a)(3) of this title.

(Pub. L. 103-444, §12, Nov. 2, 1994, 108 Stat. 4642.)

**§ 1776k. Authorization of appropriations**

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this subchapter.

(Pub. L. 103-444, §13, Nov. 2, 1994, 108 Stat. 4643.)

## CHAPTER 20—TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE

Sec.  
1801. Definitions.

### SUBCHAPTER I—TRIBALLY CONTROLLED COMMUNITY COLLEGES GRANT PROGRAM

1802. Purpose.

1803. Grants authorized.

(a) Purposes.

(b) Deposit of funds; limitations on uses.

1804. Eligible grant recipients.

1804a. Planning grants.

(a) Establishment of program.